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Interstate Commerce Commission

TENTH ANNUAL CONVENTION
OF
RAILROAD COMMISSIONERS

MAY, 1898

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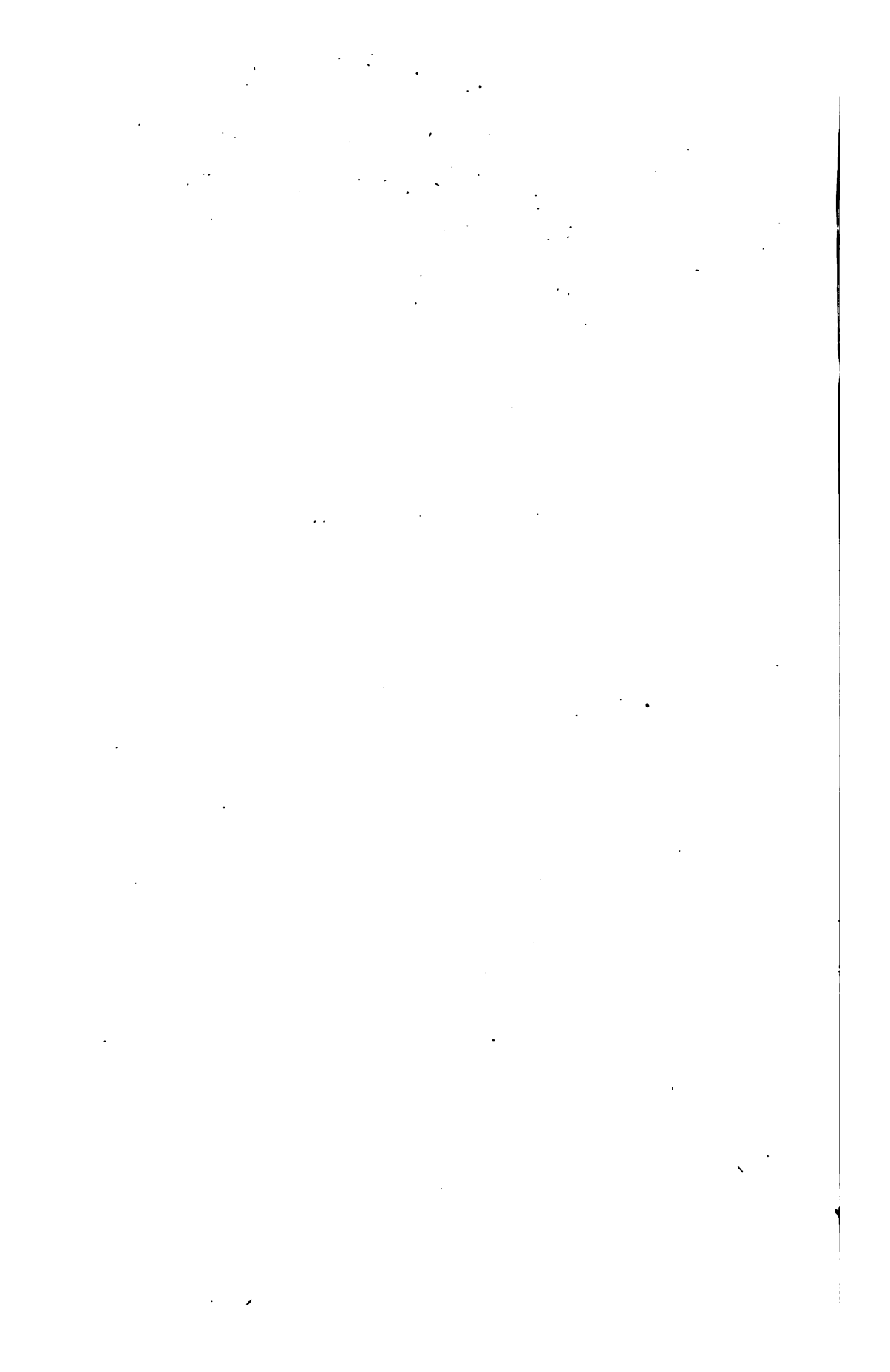
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GIFT OF

*National Association of
Railway Commissioners*

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PROCEEDINGS

OF

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A NATIONAL CONVENTION OF RAILROAD COMMISSIONERS

HELD AT THE OFFICE OF

THE INTERSTATE COMMERCE COMMISSION,

WASHINGTON, D. C., MAY 10 AND 11, 1898.

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WASHINGTON:
GOVERNMENT PRINTING OFFICE.
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ORGANIZATION OF CONVENTION.

OFFICERS.

CICERO J. LINDLY, *Chairman.*
W. W. AINSWORTH, *Vice-Chairman.*
EDWARD A. MOSELEY, *Secretary.*
MARTIN S. DECKER, *Assistant Secretary.*

COMMITTEES.

ORGANIZATION AND PROGRAMME.

JAMES W. LATTA, of Pennsylvania.	D. P. DUNCAN, of South Carolina.
R. S. KAYLER, of Ohio.	IRA B. MILLS, of Minnesota.
JOSEPH FLORY, of Missouri.	

CLASSIFICATION OF CONSTRUCTION EXPENSES.

A. K. TEISBERG, of Minnesota.	HENRY C. ADAMS, of the Interstate
ERASTUS YOUNG, of Accounting Off- icers.	Commerce Commission.

CLASSIFICATION OF OPERATING AND CONSTRUCTION EXPENSES OF ELECTRIC RAILWAYS.

WILLIAM O. SEYMOUR, of Connecti- cut.	ASHLEY W. COLE, of New York.
	R. S. KAYLER, of Ohio.

RAILWAY STATISTICS.

HENRY C. ADAMS, of the Interstate Commerce Commission.	Z. S. STANTON, of Vermont.
WILLIAM O. SEYMOUR, of Connecti- cut.	E. H. ARCHER, of Ohio.
	ALLISON MAYFIELD, of Texas.

UNIFORM CLASSIFICATION.

IRA B. MILLS, of Minnesota.	FULLER C. SMITH, of Vermont.
JOSEPH FLORY, of Missouri.	E. A. DAWSON, of Iowa.
J. J. EVANS, of Mississippi.	J. D. MASSEY, of Georgia.
H. D. BULKLEY, of Maryland.	

POWERS, DUTIES, AND WORK OF RAILROAD COMMISSIONS.

CICERO J. LINDLY, of Illinois.	H. R. THOMAS, of South Carolina.
D. H. ABBOTT, of North Carolina.	NATHAN KINGSLEY, of Minnesota.
FRANK KENFIELD, of Vermont.	

LEGISLATION.

EDWARD A. MOSELEY, of the Inter- state Commerce Commission.	JAMES H. PADDOCK, of Illinois.
GEORGE L. BECKER, of Minnesota.	JAMES COWGILL, of Missouri.
	OLIN MERRILL, of Vermont.

DELAYS ATTENDANT UPON ENFORCING ORDERS OF RAILROAD COMMISSIONS.

W. W. AINSWORTH, of Iowa.	W. T. LA FOLLETTE, of South Dakota.
MARTIN S. DECKER, of the Interstate Commerce Commission.	J. C. WILBORN, of South Carolina.
	CHARLES S. RANNELLS, of Illinois.

CONVENTION OF RAILROAD COMMISSIONERS.

SAFETY APPLIANCES.

W. D. EVANS, of South Carolina.	ALEX. KIRKPATRICK, of South Dakota.
JOSEPH E. BIDWILL, of Illinois.	T. J. HENNESSEY, of Missouri.
SYBRANT WESSELIUS, of Michigan.	

ADDRESS OF M. E. INGALLS.

MARTIN A. KNAPP, of the Interstate Commerce Commission.	J. C. WILBORN, of South Carolina.
ISAAC B. BROWN, of Pennsylvania.	NATHAN KINGSLEY, of Minnesota.
Z. S. STANTON, of Vermont.	W. P. DILLARD, of Kansas.
	JAMES C. HILL, of Virginia.

PERMANENT ORGANIZATION.

R. S. KAYLER, of Ohio.	W. D. EVANS, of South Carolina.
ASHLEY W. COLE, of New York.	BEECHER B. RAY, of Illinois.
JOSEPH FLORY, of Missouri.	IRA B. MILLS, of Minnesota.
JAMES W. LATTA, of Pennsylvania.	

COMMITTEES TO REPORT TO THE NEXT CONVENTION.

Arrangements.

ISAAC B. BROWN, of Pennsylvania.	WILLIAM O. SEYMOUR, of Connecticut.
JAMES C. HILL, of Virginia.	

Organization and Programme.

ASHLEY W. COLE, of New York.	NATHAN KINGSLEY, of Minnesota.
EDWARD A. MOSELEY, of the Interstate Commerce Commission.	WILLIAM W. WEDEMEYER, of Michigan.
W. W. AINSWORTH, of Iowa.	

Uniform Classification.

IRA B. MILLS, of Minnesota.	GEORGE H. KEYES, of North Dakota.
J. J. EVANS, of Mississippi.	JAMES D. YEOMANS, of the Interstate Commerce Commission.
D. J. MCKENZIE, of Wisconsin.	
W. T. LA FOLLETTE, of South Dakota.	

Railroad Statistics.

HENRY C. ADAMS, of the Interstate Commerce Commission.	GEORGE W. PERKINS, of Iowa.
C. I. STURGIS, of the Railway Accountants' Association.	W. P. DILLARD, of Kansas.
ALLISON MAYFIELD, of Texas.	T. J. HENNESSEY, of Missouri.
	JAMES CROOK, of Alabama.

Powers, Duties, and Work of Railroad Commissions.

JAMES W. LATTA, of Pennsylvania.	E. B. S. SANBORN, of New Hampshire.
R. S. KAYLER, of Ohio.	FRANK KENFIELD, of Vermont.
JOHN E. SANFORD, of Massachusetts.	H. R. THOMAS, of South Carolina.
E. L. FREEMAN, of Rhode Island.	

Classification of Construction Expenses.

A. K. TEISBERG, of Minnesota.	JAMES HARDING, of Missouri.
ERASTUS YOUNG, of the Railway Accountants' Association.	H. M. LA RUE, of California.
	E. H. ARCHER, of Ohio.

Classification of Operating and Construction Expenses of Electric Railways.

WILLIAM O. SEYMOUR, of Connecticut.	ASHLEY W. COLE, of New York.
	R. S. KAYLER, of Ohio.

Legislation.

ISAAC B. BROWN, of Pennsylvania.	SYBRANT WESSELIUS, of Michigan.
CHARLES S. RANNELLS, of Illinois.	MARTIN A. KNAPP, of the Interstate
D. H. ABBOTT, of North Carolina.	Commerce Commission.
W. D. EVANS, of South Carolina.	

Delays Attendant upon Enforcing Orders of Railroad Commissions.

E. A. DAWSON, of Iowa.	J. C. WILBORN, of South Carolina.
JUDSON C. CLEMENTS, of the Inter-	L. D. LEWELLING, of Kansas.
state Commerce Commission.	Z. S. STANTON, of Vermont.

Safety Appliances.

JOSEPH FLORY, of Missouri.	JOSEPH E. BIDWILL, of Illinois.
ALEX. KIRKPATRICK, of South Dakota.	H. R. THOMAS, of South Carolina.

Grade Crossings.

ASHLEY W. COLE, of New York.	JAMES COWGILL, of Missouri.
JOHN E. SANFORD, of Massachusetts.	D. J. PALMER, of Iowa.
L. N. TRAMMELL, of Georgia.	

Plans for Ascertaining the Fair Valuation of Railroad Properties.

NATHAN KINGSLEY, of Minnesota.	CHARLES S. RANNELLS, of Illinois.
WILLIAM J. CALHOUN, of the Inter-	SPENCER R. ATKINSON, of Georgia.
state Commerce Commission.	JOHN C. WOOD, of Kentucky.

Officers of the Association for the Ensuing Year.

CICERO J. LINDLY, of Illinois, *Chairman*.
W. W. AINSWORTH, of Iowa, *Vice-Chairman*.
W. D. EVANS, of South Carolina, *Second Vice-Chairman*.
EDWARD A. MOSELEY, *Secretary*.
MARTIN S. DECKER, *Assistant Secretary*.

Time and Place of Holding Next Convention.

August 10, 1899, Denver, Colo.

MEMBERS OF THE CONVENTION IN ATTENDANCE.

State Railroad Commissioners.

CONNECTICUT:	KANSAS:
W. F. WILLCOX, <i>Chairman</i> .	W. P. DILLARD, <i>Chairman</i> .
WILLIAM O. SEYMOUR,	J. M. SENTER, <i>Secretary</i> .
O. R. FYLER,	MICHIGAN:
<i>Commissioners.</i>	SYBRANT WESSELIUS,
ILLINOIS:	<i>Commissioner.</i>
CICERO J. LINDLY, <i>Chairman</i> .	WM. W. WEDEMEYER,
JOSEPH E. BIDWILL,	<i>Deputy Commissioner.</i>
<i>Commissioner.</i>	MINNESOTA:
BEECHER B. RAY, <i>Secretary</i> .	IRA B. MILLS, <i>Chairman</i> .
W. M. MALLOY,	NATHAN KINGSLEY, <i>Commissioner</i> .
<i>Assistant Secretary.</i>	A. K. TEISBERG, <i>Secretary</i> .
JAMES H. PADDOCK,	MISSOURI:
<i>Member of Former Conventions.</i>	JOSEPH FLORY,
IOWA:	T. J. HENNESSEY,
E. A. DAWSON, <i>Chairman</i> .	<i>Commissioners.</i>
D. J. PALMER, <i>Commissioner</i> .	MONTANA:
W. W. AINSWORTH, <i>Secretary</i> .	T. E. COLLINS, <i>State Representative</i> .

CONVENTION OF RAILROAD COMMISSIONERS.

NEW YORK:

ASHLEY W. COLE, *Chairman.*

NORTH CAROLINA:

L. C. CALDWELL, *Chairman.*

JOHN H. PEARSON,

D. H. ABBOTT,

*Commissioners.*HENRY C. BROWN, *Secretary.*

OHIO:

R. S. KAYLER, *Commissioner.*E. H. ARCHER, *Chief Clerk.*

PENNSYLVANIA:

JAMES W. LATTA,

Secretary Internal Affairs.

ISAAC B. BROWN,

Superintendent Bureau of Railways.

SOUTH CAROLINA:

W. D. EVANS, *Chairman.*J. C. WILBORN, *Commissioner.*

SOUTH DAKOTA:

W. H. TOMPKINS, *Chairman.*

W. T. LA FOLLETTE,

Commissioner.

TENNESSEE:

F. L. THOMPSON, *Commissioner.*

VERMONT:

Z. S. STANTON, *Chairman.*

FRANK KENFIELD,

JOHN D. MILLER,

*Commissioners.*FULLER C. SMITH, *Clerk.*

VIRGINIA:

JAMES C. HILL, *Commissioner.*E. G. AKERS, *Secretary.**Interstate Commerce Commission.*MARTIN A. KNAPP, *Chairman.*JUDSON C. CLEMENTS, *Secretary.*

JAMES D. YEOMANS,

CHARLES A. PROUTY,

*Commissioners.*EDWARD A. MOSELEY, *Secretary.*

MARTIN S. DECKER,

*Assistant Secretary.**Association of American Railway Accounting Officers.*

C. I. STURGIS.

P. A. HEWITT.

H. D. BULKLEY.

M. RIEBENACK.

PROCEEDINGS OF THE CONVENTION.

WASHINGTON, D. C., *May 10, 1898—11 a. m.*

The convention was called to order by Hon. EDWARD A. MOSELEY, secretary.

The SECRETARY. As secretary of this convention, it seems to devolve upon me to call attention to the death of Chairman Davidson and state the inability of the vice-chairman to be present. I now call upon General Latta, chairman of the committee on programme.

Mr. LATTA. Gentlemen of the convention, on behalf of the committee on programme I am instructed to announce the sudden taking off of the gentleman from Iowa selected to preside over this convention, Mr. Davidson. He was an officer of value, a veteran soldier of the war of the rebellion, and a man of honor and distinction, whose loss is deeply felt and whose place is not readily filled. The vice-chairman officially announced to the secretary that he was unable to attend this meeting on account of the considerable distance from here to his home.

The committee on programme has therefore directed me to report that it has selected Hon. Cicero J. Lindly, of Illinois, to preside over the deliberations of this convention. I move that Mr. Lindly be elected chairman of this convention.

Mr. Lindly was unanimously elected and took the chair.

OPENING ADDRESS.

Mr. LINDLY. Gentlemen of the convention, on taking the chair to preside over this body, whose intelligent and harmonious action has been in the past and will be in the future so helpful to all who are charged in their respective States with the supervision of railroads, or who act as mediators between the people and the common carriers, I desire to first express the profound regret of this entire body, as well as that of myself, over the death of our colaborer in this work, whose voice had so often been heard in these councils, and whose long experience had made his advice so useful that this body at its last annual meeting in St. Louis selected him as its president, thereby paying to him the highest tribute that we can bestow on one of our members.

We will ever remember our friend and companion, the Hon. Charles L. Davidson, of Iowa.

It is an honor to preside over the deliberations of this tenth annual national convention of Interstate and State Railroad Commissioners,

selected for their ability and eminent fitness for the duties of their office. For this honor I return to the committee and to you my sincere and heartfelt thanks.

It is well, before we proceed with the deliberations of this convention, that we should pause to express our joy and thankfulness that we are citizens of this united and patriotic country, whose devoted sons are moving forward on land and sea to avenge a nation's wrongs. Their deeds of valor and their final victory will give a new inspiration to human liberty and plant our national banner on a still higher plane of humanity and civilization. [Applause.]

The nation indorses the wisdom of the executive and legislative branches of our Government. Let us hope that the same justice and decision will continue to guide them. Let us hope that wisdom will direct the movements of our leaders and men, until victory, as it always has, shall add new laurels to "Old Glory," thus giving to the world another evidence of the durability, stability, and permanency of the greatest and grandest Government the world has ever produced.

The shortness of the notice that I would be called upon to preside precludes a more elaborate address.

The object and purposes of these meetings have been so fully and completely set forth in the opening addresses of Judge Cooley and our retiring president, the Hon. Isaac B. Brown, that I need not now attempt to state them.

That these meetings have been beneficial no one will deny; that they have resulted in greater uniformity of action all will admit; that a mutual exchange of opinions along the lines of duty is helpful all will concede; that after we have found what legislation is necessary to accomplish our purposes, both national and state, it is our duty to petition the enactment of the same; that our united influence will be felt in that direction can not be questioned.

The epoch of transition from failure to prosperity, from insolvency to success and fortune, dating from the year 1859 to 1863, by railroad building and management, with the immense aid granted by State and nation, marks the birth of the great railroad corporations in this country.

In all localities, districts, and counties not then supplied there grew an ardent demand, prompted by a desire to keep pace in population, wealth, and progress; and, believing that they would be left behind in the march of prosperity without convenient transportation, they gave stimulus to the greatest epoch of railroad construction that the world has ever seen or will ever know.

From the time that railroad investments emerged from their period of bankruptcy to one of prosperity by combination, consolidation, and pooling of interests, which made its first appearance in New York under the Vanderbilt management, from that time there arose several modes of popular agitation based on alleged abuses and mismanagement of the railroads, which continued until it culminated in the creation by law of the different boards which compose this convention.

A very important subject for the consideration of this body would be to devise some means by which laws could be passed in the several States enabling the commissions to enforce their rulings. Their orders should have the same force and effect as a judgment of court, with the right of appeal to the higher courts. The law gives the commissions the power to make the maximum rates, yet they give them no power to fix or enforce a penalty for noncompliance with the rates when made.

In the State of Illinois, however (and I understand in most of the

States it is the same), the railroad companies respect and enforce the orders of the commission, even to details, promptly complying with any rulings which we may make, and correcting any violations of law to which their attention is called.

One of the difficulties with which we have to contend, as railroad commissioners, is the difference between the rate on an interstate haul and a State haul. To illustrate: In many instances the freight rate from west of the Mississippi River is lower to Chicago than it is east of the Mississippi River. The fact that it comes from another State makes it an interstate haul, over which we have no jurisdiction.

We have found, after investigation, that many commodities are hauled at a much lower rate from distant States to our great inland market, Chicago, than they are hauled from southern Illinois to Chicago, making it frequently more expensive to market the products of the farm and orchard situated within a short distance from Chicago than to market the same products from distant States to Chicago.

The people expect this evil remedied, and under present conditions I see no way of remedying it except to reduce the rates in the State to a low point, and thereby force the railroads to maintain the rates on the long hauls. Competition is probably the father of this evil.

The decision of the Supreme Court of the United States in what is known as "the Nebraska maximum rate case," which was rendered on March 7, 1898, promises to be of the greatest value to the railroads of this country, especially in the Western and Southern States.

Briefly, what the Supreme Court says is that a State legislature can not impose a tariff that will not furnish a fair return on the fair value of the property of the railway companies, and that the determination of the legislature is not conclusive, but that the subject-matter is subject to judicial investigation.

On the question of what constitutes "fair value" the court says:

In order to ascertain that value, the original cost of construction, the amount expended in permanent improvements, the amount and market value of its bonds and stocks, the present as compared with the original cost of construction, the probable earning capacity of the property under any rates prescribed by statute, and the sum required to meet operating expenses are all matters for consideration, and to be given such weight as may be just and right in the particular case. What the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience.

On the question of maximum rates, the court further says:

In our judgment, it must be held that the reasonableness or unreasonableness of rates prescribed by a State for the transportation of persons and property wholly within its limits must be determined without reference to the business of an interstate character done by the carrier, or to the profits derived from that business. The State can not justify unreasonably low rates for domestic transportation, considered alone upon the ground that the carrier is earning large profits on its interstate business, over which, so far as rates are concerned, the State has no control.

This decision clears the atmosphere and furnishes something tangible upon which legislative bodies and railway commissions may act.

First, the railroad commissions must be governed entirely in fixing rates upon the conditions existing in their respective States, and can not consider the earnings of a railroad, however large, outside of their own State, in determining what shall constitute a reasonable rate within the State.

At first blush this would seem inequitable and unjust, but it carries with it every element of fairness and equity, because the rates of a railroad in densely populated States where the traffic is heavy should not be of a character to maintain and support, nor to add to the profits,

nor build the income of that portion of the same railroad system running through and supported by sparsely settled communities.

In those States where the development of the country is of like character, as in Iowa, Illinois, Indiana, and Ohio, the rates should be uniform, and the Interstate Commerce Commission should have the power to fix the rates so that the interstate haul would not be above nor below the rates fixed by the commissioners of the various States. This rule could not apply to Kansas, Nebraska, or the Dakotas, in each of which States the rates should be governed by the conditions existing therein.

In determining the proper method to pursue in establishing maximum rates, it occurs to me that the first question to consider is the gross earnings of the various railway companies in the particular State in question.

The figures representing gross earnings are not subject to manipulation—to be proven away by the testimony of railroad accountants and experts—and the gross earnings should be the basis, in my opinion, of legislative action, and the basis upon which railway commissions should act in determining the maximum rates to be charged.

In the State of Illinois, in the year 1897, the expense of operation included a little over 66 per cent of the gross earnings, leaving about 34 per cent to be applied on the payment of interest, taxes, and profits.

The item of taxes can be easily ascertained, but the question of interest is more difficult, for many railroads have issued what is commonly called "income bonds," which is merely a method of disposing of net earnings or profits, and mystifies the calculations, and serves no other purpose than to deceive both the courts and the public.

The decision in the Nebraska case makes the question of determining what is the fair value of railroad property a very important one. Those who are somewhat populist in their views insist that \$30,000 per mile would be a fair basis, while, on the other hand, railroad corporations insist that \$70,000 per mile is a fair basis of valuation. This question is beset with a great many difficulties. The means of determining values of railway properties are largely in the hands of the railroad companies. The information must be derived from them. The ordinary shipper is totally unacquainted with railroad values and railroad bookkeeping. What method the courts may adopt as the best means or criterion of values is unsettled and undetermined by the Nebraska case. In my opinion, the same method should be employed as in the determination of the value of real estate and personal property, and yet that could not be used as an inflexible rule. It would not do to take the cost of construction as a controlling element, for I know of many roads in my own State where the cost of construction is far in excess of the actual value of the road, the roads having been built through sections of country already sufficiently occupied by railroads. I would suggest that this convention formulate some uniform rules upon which the fair valuation of railroad property can be ascertained. I am free to admit, however, that we could only hope to obtain a fair approximate value.

The question of public expediency in the reduction of rates can no longer be urged under this decision. The Supreme Court of the United States has furnished a more powerful argument. The recent decision places an absolute veto in the way of any legislation which will operate to reduce rates or cut down earnings in at least twenty-two States, where statistics show that the earnings are not more than sufficient to meet operating expenses.

As I view this decision, there is not to exceed ten States in the Union

where railroad rates could be reduced and keep within the rule of law laid down in the Nebraska Case.

There is another question which demands our attention, and that is, the crossing at grade, in our large cities, of street railroads with steam railroads. In the State of Illinois we have no legislation which definitely settles this question. In some States it has been held that these crossings are under the jurisdiction and control of railroad commissions. The fearful loss of life at these crossings admonishes us that prompt and vigorous measures must be taken, and either a method of interlocking devices must be supplied or the tracks of either company must be elevated. To accomplish this the street railways, in all cases, should be under the jurisdiction of the railroad commissions.

Grade highway crossings demand the careful consideration of this body. The rapidity with which trains are moved at present makes these crossings very dangerous, without some appliance being supplied to give warning of the approach of a train. The fatalities resulting from accidents on highway grade crossings are appalling, and we should endeavor to secure legislation in our respective States prohibiting grade highway crossings, and, where elevation is impracticable, electric bells should be placed to give warning of an approaching train.

The interest taken by railroad employees in the question of rates, and the discussion by them of the effect upon their wages, indicates a new interest in this subject by the employee, and, if this movement is properly conducted, will result in better understanding between the companies and their servants, and will finally bring about that for which all have so long wished, the elimination of strikes from our civilization.

The interest manifested by Congress and the legislatures of the respective States and this body in the question of safety appliances has met with the hearty approval of an appreciative public, and when all the cars have been properly equipped in accordance with the law it will give every safeguard that it is possible to throw around the employees of railroads, and we heartily indorse the action of the Interstate Commerce Commission in extending the time in which to complete this work, but we hope that the Interstate Commerce Commission will insist and demand that this shall be the limit of time granted for its completion.

It is very important to the States, so completely covered with a network of railroads, that laws should be passed placing entirely in the hands of the railroad commissions the discretionary power of passing upon the advisability of the construction of any new road, similar to the power already conferred on some of the railroad commissions of Eastern States, thereby preventing the mercenary speculator from preying upon the credulity of the public by placing upon the market bonds issued for the construction of a railroad which can never even pay its operating expenses.

As a result of the deliberations of this body in past years a great deal has been accomplished along the line of improvement in the compilation of railroad statistics. Nothing is valuable unless it is accurate and reliable, and of nothing is this truer than of railroad statistics. While we have made great improvements along this line, we should endeavor to have a fixed time when the reports of the various railroad commissions and the statistical tables therein contained are to be issued. Statistics are very valuable if given to the public at the proper time, but they lose a large part of their value if withheld for months.

Probably there is nothing of greater importance than to have uniformity of rates in all of the States in which like conditions obtain. For

instance, there should be no difference in the live-stock rates of Illinois, Iowa, Indiana, or Ohio, and if this body could accomplish the work of equalizing those rates they would settle an important question that continually agitates the people.

Rates at all times should be so adjusted as to give a fair recompense to the carrier, so that the money invested will yield a fair per cent and enable the railroad companies to pay living wages to their employees; but these rates should not be fixed so as to pay high rates of interest on watered stock, nor on overestimated investments, nor should they be based upon the cost of a road which is built in an expensive and extravagant time, nor money wasted on the construction by extravagant and inefficient officers. These rates should not be so adjusted as to pay interest upon capital invested in a useless and unnecessary road.

There is no desire upon the part of the people to injure the railroad companies nor to make any unreasonable reduction in the maximum rates so the railroad properties will not yield a fairly profitable income, because the railroad companies have been the great civilizers of the New World, and the rapid growth of this country, which is so astounding and has surpassed all history, has been largely due to the building of the railroads. Each day and hour the demand is increasing for more rapid transit, and that demand is being promptly met with by the railroad companies.

We should be governed in all of our actions by duty and justice, both to the shipper and the carrier, keeping in mind always that "a railroad is a public agency and its management a public trust." [Applause.]

The CHAIRMAN. Gentlemen, what is the further wish of this convention?

Reading the call for the convention was dispensed with.

Mr. LATTA. I beg leave to submit from the committee on programme that the programme of the convention shall be that which is set forth in the call.

The report of the committee was adopted, and the programme is as follows:

PROGRAMME OF THE CONVENTION.

Delivery of addresses by Mr. M. E. Ingalls, president Cleveland, Cincinnati, Chicago and St. Louis and Chesapeake and Ohio Railway companies, and Mr. E. E. Clark, grand chief conductor Order of Railway Conductors of America and chairman Federation of American Railway Employees.

1. Classification of construction expenses.
2. Classification of operating and construction expenses of electric railways.
3. Railway statistics.
4. Uniform classification.
5. Powers, duties, and work of railroad commissions.
6. Legislation.
7. Delays attendant upon enforcing orders of railroad commissions.
8. Safety appliances.

Mr. PADDOCK. There being a vacancy in the office of vice-chairman, I nominate Mr. Ainsworth, of Iowa, for that position.

The motion was carried.

The CHAIRMAN. The secretary will call the roll.

Upon call of the roll the following answered to their names:

Connecticut.—W. F. Willcox, chairman; William O. Seymour, O. R. Fyler.

Illinois.—Cicero J. Lindly, chairman; Jos. E. Bidwell; Beecher B. Ray, secretary; W. M. Malloy, assistant secretary; James H. Paddock, member of former conventions.

Iowa.—Edward A. Dawson, chairman; David J. Palmer; W. W. Ainsworth, secretary.

Kansas.—W. P. Dillard, chairman; J. M. Senter, secretary.

Michigan.—Sybrant Wesselius, commissioner; William W. Wedemeyer, deputy commissioner.

Minnesota.—Ira B. Mills, chairman; Nathan Kingsley; A. K. Teisberg, secretary.

Missouri.—Joseph Flory, T. J. Hennesey.

Montana.—T. E. Collins, accredited representative.

New York.—Ashley W. Cole, chairman.

North Carolina.—L. C. Caldwell, chairman; John H. Pearson, D. H. Abbott; Henry C. Brown, secretary.

Ohio.—R. S. Kayler; E. H. Archer, chief clerk.

Pennsylvania.—James W. Latta, secretary internal affairs; Isaac B. Brown, superintendent bureau of railways.

South Carolina.—W. D. Evans, chairman; J. C. Wilborn.

South Dakota.—W. H. Tompkins, chairman; W. T. La Follette.

Tennessee.—F. L. Thompson.

Vermont.—Zed S. Stanton, chairman; Frank Kenfield, John D. Miller; F. C. Smith, clerk.

Virginia.—James C. Hill, chairman; E. G. Akers, secretary.

Interstate Commerce Commission.—Martin A. Knapp, Judson C. Clements, James D. Yeomans, Charles A. Prouty; Edward A. Moseley, secretary; Martin S. Decker, assistant secretary.

Association of American Railway Accounting Officers.—C. I. Sturgis, Chicago, Burlington and Quincy Railroad Company; P. A. Hewitt, Cleveland, Cincinnati, Chicago and St. Louis Railway Company; H. D. Bulkley, Baltimore and Ohio Railroad; M. Riebenack, Pennsylvania Railroad Company.

The CHAIRMAN. The first item on the programme adopted by this convention is an address from Mr. Ingalls, president of the Cleveland, Cincinnati, Chicago and St. Louis and the Chesapeake and Ohio Railway companies. I now have the pleasure of introducing Mr. M. E. Ingalls.

ADDRESS BY M. E. INGALLS.

MR. INGALLS. Mr. Chairman and gentlemen: I am very much obliged for this opportunity of addressing you. I understand I have in my audience the members of the Interstate Commerce Commission and the gentlemen composing the various railway commissions of the different States. It is a body that is supposed to stand as an arbiter between the railways and the people—as a friend of both; a body that ought to

and does have great influence, and especially in reference to legislation regarding railways. If this audience should agree upon any legislation in that respect that was needed I presume there would be no difficulty in inducing yonder Congress to enact it into law, and believing as I do that it is essential to the public interest to secure legislation, I am pleased to have this opportunity of presenting my views and endeavoring to enlist you in the reforms which I think are so vital. We have reached a crisis in railway management where something must be done if we would avoid disaster, not alone to the railways but to the material interests of our country.

For thirty years a contest has been waged in legislatures, in Congress, and before the courts by the people on one side who believed that railways were public corporations and subject to control by the power that created them, and, on the other hand, by officials of the railways, who did not believe such control was legal or practicable. State after State asserted its right. These rights were contested from one court to another and decided from time to time, always in favor of the people, under certain restrictions. It finally culminated in 1887 in the enactment of the interstate commerce law, and since then there has been hardly a day when some provision of that law was not under consideration by the courts or by Congress, until now we may state it as fairly settled by the highest courts in the land that the legislatures of the States have control over the railways with reference to their local business, subject to certain conditions, and that the Congress of the United States has the power to regulate interstate business. The Supreme Court of the United States, which is the highest arbiter of these differences, has just decided that such control of the States, or regulation, must be reasonable, and that rates can not be reduced below a point where the railways can earn their expenses and a fair return upon their cost.

Railway managers had accepted the situation and were endeavoring to obey the interstate-commerce law and adapt their management to it, when in March, 1897, a decision was rendered by the Supreme Court, which produced chaos and destroyed all agreements. It was practically that the Sherman antitrust law, so called, which it had not been supposed applied to railways, did apply to them, and under the construction of that law by the court it was practically impossible to make any agreements or arrangements for the maintenance of tariffs. In the case brought against the Joint Traffic Association, in New York, this view has been combated by the railways, and it may be modified by the court. But since that decision in March, 1897, there has been practically a state of anarchy, so far as the maintenance of tariffs is concerned, in a large part of this country.

It is well, perhaps, that we should look the situation fairly in the face, and while I do not care to be an alarmist I feel bound to describe plainly to you the condition to-day so that you may understand the necessity for action. Never in the history of railways have tariffs been so little respected as to-day. Private arrangements and understandings are more plentiful than regular rates. The large shippers, the irresponsible shippers, are obtaining advantages which must sooner or later prove the ruin of the smaller and more conservative traders, and in the end will break up many of the commercial houses in this country and ruin the railways. A madness seems to have seized upon some railway managers, and a large portion of the freights of the country is being carried at prices far below cost. Other than the maintenance of tariffs the condition of the railways is good; their phys-

ical condition has been improved; their trains are well managed, and the public is well served. If a way can be found by which tariffs can be maintained and the practice of secret rebates and private contracts discontinued, the future will have great promise for railway investors, railway employees, and the public generally.

And here I wish to say that this is not a question which concerns railway investors alone. If it was, you might say, "Let them fight it out." It concerns, over and above everyone else, the great public. One-fifth of our people are interested directly in railways, either as employees or employees of manufactories that are engaged in furnishing supplies to the railways. Can any body politic prosper if one-fifth of its number is engaged in a business that is losing money? The railways serve the public in so many ways that their prosperity is closely interwoven with the prosperity and the comfort of the ordinary people. One thousand millions of dollars were paid-out last year by the railways from their earnings to employees and manufactories in this country; 511 millions of passengers were carried; 13,000 millions were carried 1 mile; 765 millions of tons of freight were moved; 95,000 millions of tons were moved 1 mile.

Do you think that any interest performing such immense service as this can be in difficulty and the balance of the country not feel it? Forty millions of dollars were paid out for public taxes. Over 3,000 millions of dollars that have been invested in railways have earned no dividends for years. This is not "water," as some populist orator will say, but good, honest money. These securities are held all through the land and their failure to pay any return has brought disgrace upon us abroad, and suffering and want in many a family and community at home. A slight improvement in the rates, which would be scarcely felt, would make this investment good. One mill per ton per mile, or one-tenth of a cent, additional, last year would have made 95 millions of dollars increase in net revenue, and this would have paid 3 per cent upon this invested capital.

These are the material sides of the question. There is a much more dangerous view, and that is the demoralization of the men conducting these immense enterprises and the want of respect for law which is being developed by the present situation. The trouble is not due altogether to the provisions of the interstate-commerce law. It has grown up from various sources. The panic of 1893 and the loss of business for the next few years intensified the competition between the lines; new avenues were opened; the competition of the Gulf ports increased enormously, also that of the Canadian Pacific on the north. Altogether these causes produced such sharp competition, coupled with the decision referred to of the courts, that no understandings or agreements can be made, and have combined to produce the most complete breakdown that has ever been seen in any business. There is less faith to-day between railway managers, with reference to their agreements to maintain tariffs, than was probably ever known on earth in any other business. Men managing large corporations, who would trust their opponent with their pocketbook with untold thousands in it, will hardly trust his agreement for the maintenance of tariffs while they are in the room together. Good faith seems to have departed from the railway world, so far as traffic agreements are concerned.

One of the chief difficulties with the law as it stands to-day is that the punishment for private contracts and rebates is entirely out of proportion to the offense. The imprisonment clause was put in as an amendment to the interstate-commerce law, and I believe the commis-

sion and everyone who has watched its workings will agree with me that it has been a failure, more than a failure—that it has caused perhaps more demoralization than anything else. The public has not believed in it; it has been impossible to secure conviction; it has prevented the railway official who desired to be honest from complaining of his competitor whom he thought was dishonest. In fact, it has been what every law is that is not supported by public sentiment—a failure. What, in fact, is the manner of conducting business to-day? The railway official who desires to be honest and law-abiding sees traffic leave his line and finds the freight that he was carrying hauled to the warehouse of his rival, the earnings of his line decreasing, and complaints from the management of loss of earnings, and in the distance he sees looming up the loss of his position. At the same time, the shipper who desires to obey the law sees some rival selling merchandise to his customers at prices he can not meet, and he knows very well that he is securing concessions from some railway to enable him to do this.

The railway agent and the shipper who wish to obey the law sit down together and look it over. What relief is there for them? They can complain of their rivals, possibly convict them under the interstate-commerce law, and send them to the penitentiary; but such action would bring down upon them the condemnation of the public and would ruin their business; for, as I stated before, the public does not believe in this severe feature of the law and will not support anyone who enforces it. The result is, these men in despair are driven to do just what their opponents are doing. They become lawbreakers themselves. I have drawn no fancy picture; it is what is occurring every day around you. Boards of trade, commercial bodies, and conventions have repeatedly reported on it, and all have come to the same conclusion, and yet, for some inexplicable reason, Congress has failed to act.

There are two changes that should be made in the present legislation which would aid in creating a better condition of affairs than exists to-day. First, the tenth section, or imprisonment clause, should be stricken out and a new law should be enacted imposing a fine of, say, \$5,000 upon the offending corporation; make each and every contract or bill of lading a separate offense. Leave out the shipper altogether; you want his testimony. If he cheats by underbilling or false invoices, he should be punished, but his attempt to secure a lower rate than his rival should not be indictable, as you then prevent getting testimony which you need.

With this amendment put into law every railway official will be interested in prosecuting his rival for any violation of the law. To-day you can not get any help that way, because no one is going to try to send his competitor to prison. Public sentiment would not support it, and over it all is the fear that he himself may have committed transgressions which in turn will be discovered and prosecuted and punishment inflicted upon himself. But if it was a case of fine against the corporation there would be no hesitation in these corporations using the entire power which they have to convict wrongdoing. You may think that some would pay these fines and go on, but I assure you that a few fines of \$5,000 would work wonders in reforming railway corporations in their management. Above all you will have public opinion behind you and it will be easy to enforce this law. You can get all the testimony you want; no one can refuse to produce his books. You will at least give those railway officials and those shippers who sincerely desire to be law-abiding citizens a fair chance to defend themselves.

Second, the law should be amended so that railway corporations can

contract with each other for the maintenance of rates or the division of business, and in case of failure of either party to keep his contract allow the other to sue in the courts and recover damages. This, in part, is what is called pooling, but it is more than this. It legalizes contracts between railway corporations. It may be a contract for maintenance of rates with no division of business. To-day, if two railway corporations contract that they will maintain the same rates between Baltimore and New York it is a conspiracy, contrary to public policy, and can not be enforced in the courts. This is an old law which is not adapted to modern business methods. It grew up to protect the public in old times, but is no longer necessary, and should be changed by legislation.

The right to pool, as you all know, provides that two or more railway corporations can agree to divide the business between competing points on certain proportions, and the line that carries more than its share shall pay a certain sum as damages for its failure to keep its contract. The objection to allowing this has been that excessive rates might be charged. To protect the public in this matter, enact into law that upon the complaint of any citizen such rates shall be subject to review by the Interstate Commerce Commission, and in case they shall find that they are excessive they shall at once be reduced to the basis fixed by the Interstate Commerce Commission or else the agreement shall be ended.

Is it wise, is it broad statesmanship, to leave a business as large as that of the railways—one in which one-fifth, at least, of our population is engaged; one which affects the comfort and happiness of nine-tenths of our people—is it wise to leave it outside of the law? It is said that the most expensive occupation to the community is that of the burglar; he has to spend so much time and destroy so much to get so little. Is it worth while to force the great railway interests of the country into the same position?

Who opposes this legislation? First, certain people who desire the Government to own and operate the railways. Second, others who wish that the Interstate Commerce Commission should make all rates. Third, and lastly, certain railway managers who are opposed to any and all legislation, and who object to any control and believe that they should be left entirely alone.

As to the first parties, I need not spend much time upon them. Very few people in this country are ready to launch the Government into the management of 185,000 miles of railway and the employment of a million of men. It would, in the end, be the destruction of the Republic. The second and third parties represent opposite extremes. One wishes the Interstate Commerce Commission to regulate everything; the other wants them to regulate nothing.

Is it not better, is it not wise for us to take a medium course? The question of making rates is the most important and the most delicate business task that I know of. It is not only your local business, your immediate competition, but over and above it all is the competition of places and markets. The question of whether the grain from Nebraska shall be exported to Europe via the Atlantic ports, or through the Gulf, or by way of Canada, the question of what tariff it is profitable to make (and this usually depends entirely upon what freight there is to carry back), the protection of different ports, the development of different classes of business, all involve such immense interests that the human mind that realized the task would shrink from giving it to one

set of men, no matter how wise or experienced they were, and a man who would desire this power would be rash beyond conception.

Pitted against this view, and determined to prevent any legislation, is the railway manager, who believes that he should be left to sail his own boat, fight his own battle, manage his line as he pleases. This plan was all very well twenty-five years ago, but the people have decided otherwise, and he who does not change and recognize the present situation is a back number. Regulation by the people has come to stay. All of us who have any interest in our country, who desire its prosperity, are interested in the solution of this great question. It is not a time for the demagogue to howl about corporations. It is not a time to talk about the wrongdoings of railway managers. There are always some, in any business, who will not do right, and there always will be, but the great mass of the railway managers to-day, I assure you, are as honestly seeking a solution of this question as are you or any member of the legislative body. I believe I voice the belief of a very large majority of them, that the two provisions I have mentioned are necessary and will lead to the settlement of this question. If this body will join and heartily indorse this course, and work for it, its accomplishment can be attained.

We have unwittingly in this country applied to railways laws that it was never intended should be applied to transportation companies of this nature. We have gone back and taken decisions that were wise a hundred years ago when civilization was in its infancy and when the masses needed certain protection and have endeavored to apply these same principles to the great transportation interests of modern times. The courts, unfortunately, have followed in that line. Every business man, every statesman, knows that it is a mistake; that we have here an immense interest such as the world has never seen, and the principles which should govern it must be worked out in harmony with the age and with the needs of the country. There should be no friction between the Interstate Commerce Commission and the railways; there should be none between the State commissions and the railways. There has been too much of a feeling with these bodies that the railways were against them.

In the contest with railways in the courts the Commissioners have drifted away somewhat from the ground they ought to stand on—that is, they should be the friends of the railways instead of their enemies, and should aid in securing the proper legislation, and the railways, in turn, should give their support to make such legislation effective. I believe it can be done in no better way than by the two methods I have pointed out. First, the change of the criminal section; second, authority to contract and divide business. Either one of them would be of great advantage, but we ought to have both. There should also be such legislation as will give more force to the recommendations and orders of the Interstate Commerce Commissioners. Instead of trying to break down the commission the railway officials should try to build it up; should make the commission its aid and use it as a bulwark of strength in Congress and in the States to beat back the tide of populism that is rising continually against them.

Unless some change like I have indicated is made, the small shippers of the country will be extinguished and a few men of large capital will control the entire merchandise business. They have such facilities through commissions, agencies, and ownership of private cars for evading the law that no moderate shipper can for a moment compete with them. Is it wise for any country to aid in such a destruction? Is it not

suicidal to all our material interests? The railways themselves in their insane competition will at last get so low that they will be seized upon by large capitalists and combined into one monstrous company. Already, since the interstate-commerce law, there have been more consolidations of rival and competing lines than in the twenty-five years previous. This is not for the interest of the public. You must further remember that this immense industry can not be run by iron rules. There must be some opportunity for the development of traffic. There must be some freedom given the managers in the proper way to increase the business of their lines.

You hear objections that agreements to divide the business will produce rates that will be destructive to the business of the country. The answer to them is that no pool can be made large enough to control the business of the country as against the different markets. The grain and the meats and the large articles of commerce have a hundred ways of reaching the markets, and the competition of these will prevent any large advance. It is also admitted that the commissioners ought to control all rates made under a pool.

You also will hear from different sides conclusions drawn from what has been done by the railways in England. Yet these comparisons are idle; we have so much greater mileage and such an enormous country that what possibly might work there would be destructive here. We must work out the transportation interest on our own lines and adapt it to our own country.

I beg of you, gentlemen, to take these things to heart. If the thoughts that I have suggested are wise and commend themselves to your judgment, then put them in such form as is proper and present them to Congress with your recommendations, and I have not much doubt but that they will be made into law. There will be some people oppose them through selfish interest or for political reasons; there will be some railway managers, who fear the loss of their present power and who can see great trouble in the future, who will oppose them; but why, in reference to such an enormous interest as this, wait for everyone to agree? Take what the great mass of thinking men, what you yourselves, approve, and put it into the shape of a law and let us try it. If it accomplishes what we wish, it will be a fortunate day for this country. If it accomplishes but a little of what we hope, we shall indeed have made a success. If we are mistaken and it does no good, we at least shall have the satisfaction of having made an honest effort in the right direction.

Mr. SEYMOUR. I move that the thanks of this convention be tendered to President Ingalls for the very able, interesting, and suggestive paper which he has presented to us, and that the further consideration of the suggestions therein presented be submitted to a committee of three to be appointed by the Chair.

The motion was unanimously agreed to.

The CHAIRMAN. I will appoint that committee some time during the day.

It is well that the address of Mr. Clark, of the railway employees' federation, should follow. I desire to call attention to something that occurred in my State in a case we had in Chicago not long ago, when we were considering the reduction of live-stock rates. There appeared before the commission the representatives of 70,000 railway employees

in the State of Illinois, who presented the reasons, from their standpoint, why a reduction of the rates should not be made. I am glad to know that they have been taking this interest in the question, and I am also glad to know that we have a representative here to-day.

I have now the pleasure of introducing Mr. E. E. Clark, grand chief conductor of the Order of Railway Conductors and chairman of the Federation of Railway Employees.

ADDRESS BY E. E. CLARK.

MR. CLARK. I have hardly yet recovered from the surprise which I experienced when I received a request to be here to-day. Your kind invitation came at a time when the last illness and death of one of my collaborators placed upon me additional duties, which have precluded my making any satisfactory or proper preparation. In justice to the railway employees, however, I thought it my duty to come. I have been able to account for my being invited to say a few words to you only by the conclusion that everything in the railway world and the railway situation is of interest to you as railroad commissioners, and that, the railway employees being an important and essential factor in operation of the railways, something from them might not be wholly uninteresting or inappropriate.

I may say that it is not customary for me to confine myself to notes, but I had dictated something to outline my remarks. Having listened to the opening address of the chairman and to the very able address of Mr. Ingalls, I am placed in a somewhat embarrassing position.

If I speak without any reference to my notes, I am afraid people will accuse me of having a very good memory and of giving the good things that they have said, and if I read it I am afraid that I will be accused of appropriating a part of the chairman's address, a part of Mr. Ingalls's address, and then putting in a little of my own. But, aside from that, I have derived much satisfaction from knowing, as has been evidenced here to-day, that the railway commissioners of the States and nation, the representatives of the railways, and the representatives of the railway employees are not nearly so far apart as many people would like to make us believe.

To quote to you statistics showing the magnitude of the industry of railroading in our land, or the important part the railroads perform in our latter-day civilization, would be much like "hauling coals to Newcastle." The vast stretches of country which now yield bountiful harvests and the millions of tons of ore and fuel which are now raised, transported, and put to man's use, which but for the railroads would be primeval forests and virgin prairie or would lie idle and useless awaiting the coming of the iron highway, are well known to you.

Gridironed with railroads as are our populous States, it is safe to say there are very few of the people who have not some interest, direct or indirect, in the operation, condition, or prosperity of the railroads. It seems that there are three distinct parties or classes interested in the railroads: First, those who have invested their money in the construction of the roads, and who entertain the same feelings of solicitude for the welfare of the property as are entertained by the owners of any other kind of property in the prosperity of that property, and in the stability and profitableness of the investment; second, those who devote all their time to the service of the railroads, who have spent the best part of their lives in fitting themselves for that business, and who

depend entirely upon the compensation received for such services for a livelihood; third, the general public, which is served by the property of the owner, operated by the employees. The last-mentioned class are much more numerous than the other two, but their interests are so much more indirectly involved, and to so much smaller an individual extent, it may well be said that they are not entitled to any more consideration than either of the other two.

You, as railroad commissioners, are, in your official capacity, custodians of the interests of all three of the parties or classes mentioned. You can not perform your whole duty if either of those interests is overlooked or slighted. Your pathway can not be one always strewn with roses. Besieged by those who know nothing but politics and party obligations, railed at by those who clamor for destruction and confiscation of the railroad properties, and annoyed by the overzealous representative of those who seek some favor at your hands, you undoubtedly feel at times that the duties laid upon you are arduous and your mission a thankless one. But you can well afford to continue in the fearless and impartial discharge of your full duty, confident of the earnest support of all right-minded citizens. And it may be put down as challenging contradiction that the right and fair minded citizens constitute a large majority of the whole.

The effort to popularize the clamor for lower rates has met with considerable success; but I dare say there are many who have joined in the cry who, if they were advised as to the facts, would at once silence their voices. From the very best authorities we learn that in England the railroads receive 2 cents and 8 mills per ton per mile for hauling freight; the German roads—owned by the Government—receive 2 cents and 6 mills; the French roads—part Government and part private corporations—receive 2 cents and 3 mills; the Russian roads receive 2 cents and 5 mills, and the Italian roads receive 2 cents and 2 mills, while in America we throw off the 2 cents and carry the freight for 8 mills per ton per mile.

The annual ocean tonnage of the world is 140,000,000 tons, and that of the railroads of countries foreign to ours is 600,000,000 tons. The tonnage moved by the railroads of the United States annually is 800,000,000 tons, or 60,000,000 tons more than that of all the other railroads of the world with that of the ocean thrown in. In view of these figures, it is easily seen how a difference of a single mill per ton per mile in the rates means the difference between prosperity and solvency and embarrassment and insolvency. As the rates prevailing here are less than one-third of those of other nations, our people are now enjoying great advantages, and further reductions seem to promise naught but impairment of or destruction to the properties.

What is needed in our land is not lower rates but stable and equal rates. There is no good reason why the large dealer should enjoy lower rates than the small dealer. Railroad commissions, both State and national, may well apply their energies to the establishment of equal rates properly maintained, and if they can find no better solution of the problem, I say permit pooling.

I am not here as a representative of the railway companies or as inspired by them, but the railway employees, whom I do represent, are deeply and vitally interested in these problems. Nearly one million in number, they constitute one-fifteenth of the voting population of the country, and being men who love to make and maintain homes, they, together with those dependent upon them, make up fully that same proportion of the entire population.

Through earnest, persistent, honest, organized effort, the employees in the operating department of our railways have succeeded in getting recognition for themselves and compensation for their services which is somewhere near that which they should have. They are better paid than the employees of any foreign railway; and they should be. They are interested in the welfare and prosperity of the whole country; they are interested in their own welfare and prosperity, and they believe that both are, in a large degree, wrapped up in the welfare and prosperity of the railroads. They believe that the principles enunciated by the court in the recent Nebraska rate case are sound and proper. Equity and justice can never be determined from a one-sided view, and seldom, if ever, from an *ex parte* presentation.

In the past, and even occasionally now, the organizations of railway employees have been criticised by those who misunderstand the purposes and teachings of the organizations.

There are good labor organizations and there are bad labor organizations, just as there are good men and bad men; just as there is good money and counterfeit money. When we speak of money, we mean good money, and when I speak of these labor organizations, I speak of good labor organizations. When the declaration upon which our magnificent governmental structure is based was uttered, many there were who unhesitatingly declared that people were incapable of self-government. What false prophets they have proven to be. Others, equally nearsighted and equally narrow in their views, have, with the same readiness and recklessness, affirmed that good could not come out of organization among workingmen. They have been no nearer the truth than were those who predicted the failure of the Republic.

Not many years ago we stood trembling with terror or overcome with awe at the sight of the lightening-riven heaven and the sound of the crashing, battering thunder. From these we learn to think of electricity as an uncontrollable, invisible, awful force, something to be feared and dreaded. Under the influence of modern minds it has become our servant, almost our handmaiden. It lights and warms our homes, cooks our food, and even warms the iron upon which our lady fair curls her hair. We use it for power in a thousand and one industries; it propels our street-car lines, and it would be a bold man who would say that a few more years will not see it the motive power for the very railways which you are now commissioners over. A few years ago, as time moves nowadays, a labor organization was looked upon as a dangerous power of force, which, once set in motion, soon became uncontrollable. But molded by reasoning and reasonable influences, governed by an earnest desire to do right, profiting by the mistakes of the past, modern minds in the labor world have so shaped the destiny of these particular labor organizations as to have won the confidence of their employers, to command the respect of the public at large, and to make the organization a source of pride and a fountain of good to their members.

The men who go to make up the railroad brotherhoods are those to whose hands are intrusted annually the safety of more than 500,000,000 of passengers and countless millions of dollars' worth of property. The patrons of the railroads, as well as the railroad officials, look for a faithful performance of every duty at the hands of the employees, and they look not in vain. Cool heads, steel nerves, and brave hearts characterize these men. In their brotherhoods they are taught sobriety, morality, industry, fidelity, justice, and charity. In their daily lives

they exemplify these virtues, and who will say that they are not more valuable servants for it?

The scream of the locomotive whistle and the whir of the passing train are grown such common sounds in the daily lives of our people that they no longer attract even passing notice, except as the people are momentarily interested in the movement of some train which involves their convenience. The proverbial and invariable faithfulness of these men in the supreme moment of danger, the sacrifice of self in protection of their charge, has come to be expected and no longer arouses more than passing comment.

We are now in the first throes of war. The hearts of the whole people are stirred with patriotism, and, at the same time are wrung with anguish at thoughts of the dangers which must surround and be met by those who go to defend our country's flag. I would not pluck one single laurel from the brow of the military or naval hero. I would not in the slightest dim the bright luster of a single one of their pages in our history. I yield to no man in a desire to give them full honor; but when war's alarms have passed, when gentle peace shall have resumed her sway, when the humdrum of daily life and the stir and bustle of the business world have been again taken up, let us not forget that as an annual sacrifice 1,800 of the lives of these railroad men, suddenly and violently taken, are laid upon the altar of the demands of the commerce of our nation, while 30,000 of them suffer injuries less serious.

Let us not forget that as incidents in the lives of these men there are performed many, many deeds of simple, unassuming heroism as sublime and unselfish as are ever performed by mortal man. No soul-stirring music inspires them to such deeds. No applauding thousands look on. No thoughts of a triumphal return, of blazing bonfires, booming cannon, streaming flags, and pealing bells spur them on to heroic acts. No; none of these. A simple sense of duty and a determination to perform it is all. The awful crash comes, and, if the bruised and bleeding body is still capable of thought, the first thought is for the safety of other trains. Unhesitatingly, uncomplainingly they meet their fate. I have never known of an instance where one of these men proved to be a coward in the supreme moment of danger.

A soldier President of our Republic, in recommending to Congress the passage of a law calculated to diminish the appalling number of accidents among railway employees, asserted that the daily life of some of these employees was surrounded with as much danger to life and limb as was that of a soldier in time of war. That law, requiring the use of automatic couplers and power brakes, was adopted. The period of transition from the old order to the new has not been marked with a lessening of the number of accidents. It was not to be expected that it would be. In fact, the contrary was to be expected. It is more dangerous to couple a link-and-pin coupler on to a vertical-plane coupler than to couple two link-and-pin couplers together. But when all are automatic the danger from that cause will be reduced to the minimum. In gradually replacing old and worn small-capacity cars with larger, heavier, new ones, built for use with power brakes, it is certain that at times, under an emergency application of the power brakes, the old and weak car will collapse. But in due time the old and weak equipment will have all passed from service, and this cause of accident will have been removed.

This law was indorsed and sought by the organizations of railway employees. Its passage was shortly followed by a serious business

depression, and at the expiration of the time limit fixed in the law, within which its provisions should be complied with, it was apparent that good reason for an extension of time existed. The employees appreciated this fact, and through their organizations expressed themselves as perfectly willing that reasonable extension should be made, as was done. It is safe to say that without any law on the subject most of the railroad companies would have gradually adopted the use of these devices as a good business investment. But there would have been some companies which would have hung back and clung to old ideas, and, as has been stated, a mixed condition of affairs more dangerous than the old would have prevailed. Several States have on their statute books similar laws. You are charged with the duty of executing them. In doing this, let me beg of you not to permit any representations of false economy or of financial inability, which are not well founded in fact, to influence you. Let me impress upon your mind the fact that the brotherhoods of engineers, conductors, firemen, and trainmen have paid, through their insurance departments, to disabled members and to the widows and orphans of deceased members nearly \$20,000,000, every cent of which has come from the daily earnings of these men, and much of which has been paid on account of accidents which these laws are intended to prevent.

The American people are the most progressive in the world; the American railways are the most progressive of any in the world; the American railway employees are the most progressive of those of any nation. The regular operation of any important railroad can not be long interrupted without serious results falling upon many business interests which depend upon that railroad for the transportation of those things necessary to them. The rights of the public are appreciated and are never lost sight of by any of the employees. Occasionally differences arise between the employing company and the employees. Occasionally such differences lead to troubles, forced sometimes by one side, sometimes by the other, which result in an interruption to traffic. That the employees desire to remove these interruptions, or at least to reduce the number of them to the lowest possible limit is evidenced, by the earnest and persistent efforts which they have made to secure the enactment into law at the hands of Congress of the bill providing for the settlement of all such troubles by conciliation, mediation, or arbitration. These organizations embrace within their ranks such an overwhelming majority of the men employed in the classes of service covered by them that there is no assumption in their speaking for the whole. They have none of them ever gone to extremes in support of any cause which they would not willingly have submitted to the arbitrament of any fairly constituted board or jury.

Recently an alliance, offensive and defensive, has been formed among these organizations. It is not for the purpose of making might right. Far from it. It is for the purpose of encouraging peace by concentrating the judgment, wisdom, patience, and moral influence of the representatives of the organizations. Their voice and influence will be in the direction of peace in so far as peace with honor is possible. If it becomes necessary to resort to war, the alliance, of course, strengthens the position of the organizations. I can, however, confidently assert that if we are met by those with whom we are called upon to deal in the same fair spirit and earnest desire to do right which shall characterize our position no question will arise for which a peaceable settle-

ment will not be found. Our policy, our laws, and our purposes are such as will stand the calcium glare and the trying test of the twentieth century civilization. Our aims are to succor the needy, to care for the widow and the orphan, to make men better and women and children happier.

The one who adds to the art treasures of his nation or of the world is deemed a benefactor. If it be noble to improve the arts, how much more noble is it to improve mankind? Much has been done in that direction by the brotherhoods in whose name I speak. Doing unto others as they would that others should do to them, they will continue to so live that at no time could they pass away without the world being better for their having lived.

Mr. FLORY. I move that a vote of thanks be extended to Mr. Clark for his very able address, and that it be printed in the proceedings of this convention.

The motion was agreed to.

The CHAIRMAN. I desire to ask permission of this body to extend the number of the committee on President Ingall's address to seven. If there is no objection, I will appoint seven on that committee, so that we will have the different parts of the country represented.

There was no objection, and the chairman appointed Hon. Martin A. Knapp, chairman of the Interstate Commerce Commission, as chairman of the committee; Isaac B. Brown, of Pennsylvania, Z. S. Stanton, of Vermont, J. C. Wilborn, of South Carolina, Nathan Kingsley, of Minnesota, W. P. Dillard, of Kansas, and James C. Hill, of Virginia.

Mr. TOMPKINS. I move that the report of the committee on organization and programme be read.

The CHAIRMAN. The assistant secretary will read it.

The assistant secretary read the report.

THE ASSISTANT SECRETARY. I will also say, if you please, that copies of the call may be had upon application at the desk here. There are a few more left—about fifty.

Mr. LATTA. Mr. Chairman, it is now getting on towards 1 o'clock, and the matters of the morning having been satisfactorily disposed of, I move that a recess be taken until 2.30 o'clock p. m.

PERMANENT ORGANIZATION.

Mr. KAYLER. Last year, at St. Louis, there seemed to be some question as to who was eligible to participate in the proceedings. I desire now to offer this resolution.

The CHAIRMAN. With the permission of Mr. Latta.

Mr. LATTA. Certainly.

The CHAIRMAN. The assistant secretary will read the resolution.

The assistant secretary read as follows:

Resolved, That it is the sense of this meeting that it would be very helpful toward having uniform laws enacted for the government of railroad commissions and com-

missioners and for the railroads of this country; and to have more uniform reports made to the commissions by the railroads, for the railroad commissions and commissioners of the several States to organize themselves into a permanent body: And, therefore, be it

Resolved, That it is the sense of this meeting that a permanent organization be effected and that the chairman of this meeting appoint a committee to draft by-laws for the government of the said organization and present them to this convention for approval.

Mr. FLOEY. I move the adoption of the resolution.

The CHAIRMAN. What should be the number of that committee?

Mr. KAYLER. Seven, I think.

The resolution was adopted.

The chairman appointed Messrs. Kayler, Cole, Flory, Latta, Evans, Ray, and Mills.

Mr. LATTA. I now renew my motion for a recess.

Mr. COLE. I would like to ask whether it is feasible and whether it would be regarded by members as expedient to fix something like regular hours during which the convention will sit. They need not be ironclad, but with reasonable approximation as to the necessities of the situation; for instance, if we are to meet at 11 o'clock in the morning—I would prefer it to be 10—we could sit until 1, take an hour and a half recess and then sit from 2.30 to 5, or later, if the business before the convention seems to necessitate it.

Mr. LATTA. I might say, Mr. Chairman, that those questions were all considered this morning by the committee, but matters sometimes take an unexpected turn, and it was thought better to leave that question to the convention.

The CHAIRMAN. I think, Mr. Cole, we can adjourn from time to time and fix the time of commencing better than we could fix it by a standing rule.

The motion of Mr. Latta was agreed to, and the convention took a recess from 12.45 to 2.30 p. m.

The convention reassembled at 2.35 p. m.

Mr. LATTA. Before proceeding with the regular order, I have a communication in my hand from one of the civil engineers of Pennsylvania, Mr. Lewis M. Haupt, who invites the attention of the Railway Commissioners' Convention to the consideration of the subject of waterways in connection with the railways of the country. I desire to file these for reference to the proper committee.

The CHAIRMAN. Do you desire them read?

Mr. LATTA. No, sir.

The CHAIRMAN. I hardly know what committee they should go to.

Mr. LATTA. I suppose they had better go to the new committee on programme and organization.

The CHAIRMAN. The next order of business is reports of committees. The first committee to report is that of

CLASSIFICATION OF CONSTRUCTION EXPENSES.

Mr. TEISBERG. I have to state that credit for the report is entirely due to the railway accounting officers. This report in reference to classification of construction expenses has been perfected by the American Association of Railway Accounting Officers. We are indebted to that association not only for the results obtained in this particular of construction expenses, but also with reference to uniformity in accounting, uniformity in reporting, and a great many of other practical results that have been obtained at these meetings. The report is as follows:

Your special committee on classification of construction expenses, appointed pursuant to the terms of a resolution of our last annual convention to be found on page 50 of the printed proceedings, begs leave to report as follows:

At our last annual convention the committee on railway statistics recommended the adoption of a classification of construction expenses, prepared by a subcommittee of the executive committee of the Association of American Railway Accounting Officers and issued by the statistical division of the Interstate Commerce Commission, when such classification had been adopted by said Association of Accounting Officers at their annual meeting, which was held about two weeks later than ours.

The classification, as reported to this convention last year, was adopted by the Association of American Railway Accounting Officers, and on the 29th of June, 1897, the Interstate Commerce Commission approved and authorized this classification, so that it is now in force and effect and applicable to all steam railroads reporting to the Interstate Commerce Commission and to State railroad commissions using substantially the same blank form for report.

Respectfully submitted.

A. K. TEISBERG,
ERASTUS YOUNG,
Committee.

The CHAIRMAN. Gentlemen, what will you do with this report?

Mr. TEISBERG. I do not believe that anything should be done with it besides printing it in the proceedings. It is simply a continuation of last year's report, which was adopted. This simply states results.

The CHAIRMAN. If there is no objection the report will be printed. We are ready to hear from the next committee.

CLASSIFICATION OF OPERATING AND CONSTRUCTION EXPENSES OF ELECTRIC RAILWAYS.

Mr. COLE. I believe I am a member of that committee, and Mr. Seymour is chairman. The committee has done some work, but Mr. Seymour will, perhaps, be better able than I am to report on it. We have given some time and attention to it, but whether he will be able to report completely, I am not aware. I scarcely think he will be. He will be here shortly, and can answer then.

Mr. BULKLEY. The chairman of the committee is not here. I am also a member of that committee. As Mr. Cole has said, some little

progress has been made on that line, but I do not think anything definite has been effected.

The CHAIRMAN. If there is no objection, the report of that committee will be postponed until morning. The next committee is that on railway statistics, of which Mr. Adams, of the Interstate Commerce Commission, is chairman.

ASSISTANT SECRETARY. Mr. Adams is in Europe. Mr. Seymour is the next member of the committee, and he is not present. I suggest that the report be continued until to-morrow morning.

The CHAIRMAN. The report will be continued. The next committee is that on—

UNIFORM CLASSIFICATION.

Mr. MILLS. The committee on uniform classification will be ready to report in the morning.

The CHAIRMAN. The next report is that of the committee on—

POWERS, DUTIES, AND WORK OF RAILROAD COMMISSIONS.

I am chairman of that committee. I desire to say that some time ago I sent out a letter, a copy of which ought to be filed with the clerk of this convention, asking the chairman of each State railroad commission to make a report on its duties and work during the last year. I received several replies. I want to state to the convention that I did this without consultation with the other members, because it was hard to reach them. I have consulted with some members of the committee since my arrival, and we have agreed that it would be well to recommend that the committee which will be appointed for next year should ask for the reports of the various commissioners, hold a meeting prior to the convention, and make a synopsis of the reports and embody it in one. I have received the consent of the committee to follow the plan that was adopted last year, as far as this convention is concerned, calling upon the various boards to make a report of the powers and duties and their work during the last year.

If there are no objections, we will proceed with that report at this time. The secretary will call the roll of States, and the chairman of each commission, or someone selected by that commission, will make the report called for.

ILLINOIS.

Mr. BIDWELL. The duties of the Illinois commission are to fix maximum rates and the classification lists. They also have the power over railroad crossings, with the advice of their engineer, to have interlocking devices placed in position. We also have certain powers as to warehouses in the State—see to the management of them. We also have a chief grain inspector, who has a force of men on every railroad where grain is grown; and we keep a register of the grain in the ware-

houses, the amount of grain coming in, and the amount going out. Those are the duties that the Illinois commission have to perform, and nothing else that I know of.

IOWA.

Mr. DAWSON. I do not think, Mr. Chairman, that we have anything at present to report to the convention. The duties and obligations of the railway commission have been very fully and fairly presented in former reports. We have one or two cases which are now pending in the State courts that may be of some interest to this convention, which we will perhaps discuss in regard to other questions during the session of this convention. Otherwise, we have no further report.

KANSAS.

Mr. DILLARD. The Kansas board of railroad commissioners was created by an act of the State legislature approved March 6, 1883. It consists of three commissioners, possessing the qualifications of electors of the State, no more than two of whom shall be of the same political party. No person who owns any stocks, bonds, or property of any railroad company, or who is in the employ of any railroad company, or who is in any manner pecuniarily interested in any railroad, can be elected to the office of railroad commissioner.

The board is appointed or elected by the following State officers: The governor, the secretary of state, the attorney-general, the State treasurer, the State auditor, and the superintendent of public instruction, for a term of three years (the term of one commissioner expiring each year), unless sooner removed by the above State officers, who have power to remove any or all of them at any time without cause.

The members are also required to give a good and sufficient bond in the sum of \$10,000, each, conditioned for the faithful performance of the duties of the office of railroad commissioner.

The board appoints a secretary, possessing the same qualifications as are required for a member of the board, and may remove him at will. They also employ one clerk and one stenographer. Their office is kept in the capitol building, at the city of Topeka, and is open at all times for the transaction of business. They hold regular sessions on Tuesday of each week, and continue in session from day to day until all the business before them is disposed of.

The statute provides that whenever, in the judgment of the commissioners, any repairs upon a railroad are demanded for the security, convenience, and accommodation of the public, they shall inform the railroad corporation of the improvements and changes which they adjudge to be necessary, and then report their proceedings to the governor. But an order of this kind is advisory only, and can not be enforced, either by the commissioners, the governor, or the courts.

They are required to make annual reports to the governor on the first Monday of December, containing such facts, statements, and explanations as will disclose the workings of the system of railroad transportation within the State. The railroad companies are required to file annual reports with the board on or before the 15th day of September of each year; such report to exhibit and refer to the condition of such corporation on the 1st day of July of each year, and the details of its business transactions during the year ending June 30.

The commissioners have power to examine any books, papers, etc., of any railroad company, and to examine under oath any officer, director, agent, or employee, or any other person; they may issue subpoenas, administer oaths, and punish for refusal to testify.

If an individual shipper has been overcharged he may make complaint in writing to the board and they can investigate his complaint, and, if sustained, may make certificate, under seal, setting forth what is a reasonable charge for the service rendered, which shall be prima facie evidence of the reasonableness of said rate. They have power to establish rates to be charged by the railway companies operating within the State when complaint is made either by the mayor and council of any city or the trustee of any township within the State that the rates charged by said railway company are unreasonable, unjust, or extortionate, from a given point to a given point, both of which are located within the State. They have no power to act on their own motion.

They have power to compel railway companies within the State to establish depots, side tracks, and general station facilities, and compel railway companies to furnish an agent for the transaction of business at any point within the State. They may give any person the same power to condemn and appropriate land and lay out and construct a switch or spur that is enjoyed by railway companies. The board has no power to interfere with the manner of running either passenger or freight trains within the State.

Since the organization of this board, on April 1, 1883, 1,254 cases have been brought to their attention. Two hundred and sixty-seven of these were dismissed for want of prosecution or other causes, 503 were decided in favor of the complainants, 370 in favor of the railway companies, and 114 were compromised or settled by mutual agreement. Besides these a great number of matters have been satisfactorily adjusted by the board through correspondence. Of the number of cases decided orders in only 24 have been reported as having been disobeyed, the most notable one of which is what is known as the Live Stock Rate Case.

It had been the custom for a great many years for the railway companies in the State to ship live stock at a rate expressed in dollars and cents per carload until January 1, 1896, when they changed the manner of charging from that of dollars and cents per carload to that of cents per hundred pounds, which worked a material increase in the rate. Numerous complaints were filed, alleging excessive rates on live stock. After investigation by the board it made an order restoring the old rate of dollars and cents per carload, which was promptly obeyed by the railway companies; but on the 10th day of August, 1897, the railway companies again changed the manner of charging for live-stock shipments from dollars and cents per carload to that of cents per hundred pounds.

Complainants again came before the board, asking for an order restoring the old rate of dollars and cents per carload, which the board immediately granted and the companies refused to obey; whereupon L. C. Boyle, attorney-general for the State, in the name and on behalf of the State, appeared with the attorneys of complainants before Judge Randolph, judge of the fifth judicial district, at Emporia, Kans., and made application for an injunction and restraining order to prevent the respondent railway companies from charging any other rate than that fixed by this board for the transportation of live stock in the State of

Kansas. The respondent railway companies were summoned to appear before the court, and, all parties being represented, the injunction was granted, restraining the railway companies from collecting or putting into effect any other rate for the shipment of live stock than that established and ordered into effect by this board; and the rate of dollars and cents per carload was therefore ordered by the court until some different order in the premises should be made by the board of railroad commissioners. An appeal has been taken from said order, which is now pending in the supreme court of the State. It is expected that at some future time the railway companies will make application to this board for a rate on live-stock shipments in cents per hundred pounds.

The importance of this decision can be best appreciated when it is understood that during the year 1896 there were shipped to the Kansas City stock yards alone 863,430 cattle, 33,133 calves, 1,625,840 hogs, 297,997 sheep, 32,186 horses and mules; the total movement to said yards being 2,849,596 head of live stock. The secretary of the Kansas Live Stock Association estimated that for the year the saving to the live stock shippers in the State, in the rate of dollars and cents per carload as against that of cents per hundred pounds, would amount to something over \$400,000.

Our board has been engaged during the last two years in an effort to compel the railway companies operating between Kansas points and the Gulf of Mexico to reduce their rates on grain from said points to the Gulf. Complaint was filed by the board of railroad commissioners of the State of Kansas before the Interstate Commerce Commission and a first hearing had at Kansas City, Mo., June 6, 1896; a further hearing at Austin, Tex., April 16 and 17, 1897, and a further and last hearing at St. Louis the following May. The case was afterwards submitted upon briefs and is still pending. The outcome of this case is being watched with great interest by our people, as cheap rates to the Gulf is a matter of supreme importance to them.

The board also have, by law, a general supervision of all express companies, sleeping-car companies, and other persons, companies, and corporations doing business in the State as common carriers, and may inquire into any neglect or violation of the laws of the State by any person, company, or corporation engaged in the business of transportation of persons or property therein; and under the section giving said power it requires annual reports by all such persons and companies.

We believe that the powers of our board should be enlarged in the following particulars:

1. It should be empowered to establish and prescribe a maximum schedule of freight rates and to revise and readjust the same from time to time, as conditions require, for all persons and companies engaged in the business of transporting property between points within the State.

2. That it should be empowered to make and prescribe classifications of freight.

3. That it should be empowered to classify the railroads in fixing freight rates, according to the gross amount of their respective annual earnings within the State.

4. That it should be empowered to apply to the supreme court of the State for writ of mandamus or other proper legal process to compel compliance with any and all orders and decisions made under any provision of the law which, in the opinion of the court, shall be just and reasonable.

5. That transportation companies should be given the right of appeal from the orders and decisions of the board to the supreme court of the State, under proper restrictions and limitations.

These recommendations are embodied in the last annual report of the board to the Governor of Kansas.

MICHIGAN.

Mr. WEDEMEYER. I had expected that the commissioner, Mr. Weselius, would be here before this time, but I will answer for Michigan in his absence. In Michigan we have one commissioner, who is appointed by the governor, and who holds office for a term of two years. We have a deputy commissioner, a mechanical engineer, and various clerks. The railroad companies report to our office, and from their reports we make our annual reports, adding such recommendations as we deem proper and such other matter as may be of general interest. In Michigan there has been a great deal of agitation during the past year in regard to the separation of grades, especially so in Detroit and Grand Rapids. The question has arisen before the commissioner whether he alone could order the separation of grades. Our law on this subject is somewhat involved, and it was claimed by attorneys for the city of Detroit that the commissioner himself had power to order the separation. That matter is now before the supreme court of the State of Michigan and its decision is awaited with a great deal of interest.

In our State a great deal is being done in the way of building electric lines. Mile after mile of electric railroad is being built in every portion of the State, and there is a strong feeling that these railways should be under the control of the commissioner, the same as the ordinary steam railroads. I have no doubt that succeeding legislatures will see the necessity for that action; and I believe, too, that there is a feeling in favor of putting the street railways under control of the State commissioner.

The machinery for raising taxes, under our system of taxation, the taxation of gross receipts, lies in the office of the commissioner of railroads. There has probably been more agitation in Michigan this year in the matter of railroad taxation than in respect to any other, and that agitation will probably continue; but I do not suppose that question would be of much interest to this convention, although personally I would be greatly interested in hearing a discussion in regard to taxation of railroads and the methods of taxation in other States. It is a matter in which we in Michigan are very much interested.

The powers of the commissioner should be increased, at least in the matter of control over the electric railways and the street railways. The commissioner ought to have more power in respect of rates, with which he has now very little to do. Many instances of discrimination in rates and similar questions are brought up for his consideration, but his jurisdiction is always questioned. Along these lines I believe that legislation should be suggested, and undoubtedly it will be suggested.

MINNESOTA.

Mr. KINGSLEY: There has been no new legislation in Minnesota since the convention held at St. Louis a year ago. The work of the commission for the past year has been of the same general character as that heretofore reported. We have been called upon to investigate and adjust questions relative to new stations, station facilities, train service, sites for grain elevators, discrimination in rates between places, and track connections at points of intersection. We have granted one application to increase the capital stock of a railroad company; have ordered a new depot to be built at one point, from which order an appeal has been taken, which is now pending. We have secured the construction of depots at several points in the State without the necessity of making a formal order.

Express companies doing business in the State have but partially submitted to the jurisdiction of the commission. The principal points in controversy between the express companies and the commission at present relate to the annual reports which they are required by law to make to the commission.

The express companies have refused to report their gross earnings, gross operating expenses, net earnings, surplus, earnings in Minnesota on interstate business, and general ledger balances, basing their refusal upon the ground that they "can not be lawfully required to give information concerning their business affairs outside of Minnesota, or concerning such portion of their business as constitutes interstate commerce." The Attorney-General has been instructed to institute proper proceedings to compel a compliance with the law and the rules of the commission.

On the 20th of October, 1897, our supreme court filed an opinion in what is known as the Steenerson Rate Case. The order of the court below setting aside the order of the commission was reversed and the case was remanded to the district court for a new trial. Several questions relating to the powers of the commission in fixing maximum freight rates are discussed and determined in this opinion so far as they can be determined by a State supreme court.

The court considers that the act of fixing rates is a legislative or administrative and not a judicial act, and holds that the courts can so far review the orders of the commission fixing maximum freight rates as to determine whether such rates are unreasonable and confiscatory, and the extent to which the same, as fixed by the commission, are unreasonable and confiscatory. It also holds that the basis on which to determine what are reasonable rates is what under all the circumstances is a reasonable income on the cost of reproducing the road at the time of fixing the rates.

This proposition is doubtless modified by the recent decision of the Supreme Court of the United States in the Nebraska Rate Case. It is there held that the basis for determining what is a reasonable rate is the fair value of the property being used by the railroad company for the benefit of the public, "and, in order to ascertain that value, the original cost of construction, the amount expended in permanent improvements, and the amount and market value of its bonds and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statute, and the sum required to meet operating expenses,"

are proper matters to be taken into consideration and to be given such weight as they are entitled to.

In the Steenerson case it was also held that the burden is upon the railroad company attacking the order of the commission to show that the rates fixed are unreasonable and confiscatory, and that this burden extends to every question necessarily involved in the order. This is an important principle and strengthens the hands of the commission. Hereafter railroad companies attacking our orders will be required in every particular to show affirmatively that the order is unreasonable and confiscatory, and if they fail to do so the order will have to be affirmed.

In an opinion filed April 15, 1898, our supreme court sustained the constitutionality of a law passed in 1895 requiring railroad companies whose lines of railroad cross each other at grade to provide ample facilities by track connections for the transfer of cars and the interchange of traffic at all points where it is practicable and necessary in the interest of traffic, and the order of the commission requiring such a track connection in the village of Hanley Falls was sustained. We are advised that this case will be removed to the Supreme Court of the United States for final determination.

It will be some years before the law respecting the powers of our State legislature and of the commission it has created, and the principles upon which legislation must be based, will be settled. The rules which the commission must observe and the extent and limitation of the powers which the commission may exercise are slowly developing—too slowly, in our opinion—but the time will come, we think, when our powers will be reasonably well defined, and we can make orders with more confidence than we now have in what the courts will do with them.

MISSOURI.

Mr. FLORY. Missouri has prepared nothing specific on this line. She covered it pretty thoroughly a year ago, and I will be as brief as possible. The board of commissioners in Missouri consists of three members elected by the people at large. The term of office is six years. They have a secretary and stenographer.

So far as the power of the commission is concerned, in a great many cases it is a matter of doubt. So far as the safety and physical condition of track is concerned we have absolute power. We have absolute power so far as fixing a maximum freight rate is concerned, both in respect to railroad and express companies. Our passengers rates are fixed by statute. So far as track connections are concerned between railways, we have a case now pending in our State supreme court. As to spur switches leading from a railway to an industry we have absolute power. We have a grain and warehouse department in addition to the railroad department proper. The law provides for the appointment by the railroad commissioners of a chief grain inspector, who nominates, for appointment by the railroad commissioners, a suitable force to run that department, the object being to place under State supervision the weighing of cereals and also inspection of the same. That is about all we have to say on this line.

THE ARBITRATION BILL.

Mr. Chairman, I will ask unanimous consent of this convention to offer a resolution, as I have got to leave within twenty minutes. I am going to Baltimore and will not be back until morning. I therefore make this request.

The CHAIRMAN. If there is no objection the gentleman will be permitted to offer the resolution.

There being no objection, Mr. Flory offered the following resolution:

Resolved, That this convention indorse and recommend the passage of House bill No. 4372, known as the arbitration bill, now pending in the Senate. The purpose of said bill is to settle by arbitration disputes arising between railway companies and their employees.

Mr. FLORY. I move the adoption of the resolution.

Mr. KINGSLEY. I would like to inquire whether that is the arbitration bill passed by the House and referred to by Mr. Clark this morning?

Mr. FLORY. Yes, sir.

Mr. EVANS. I object to the immediate adoption of the resolution and ask that consideration of the same be postponed until to-morrow, and that in the meantime Mr. Flory be requested to furnish members of the convention with copies of the bill.

The CHAIRMAN. If there is no objection Mr. Flory will read the bill referred to in the resolution.

Mr. Flory proceeded with the reading of the bill.

Mr. DILLARD (interrupting). Mr. Chairman, I feel that we had better not vote upon this resolution until we have had some opportunity to read the bill carefully. Mr. Flory said the bill was quite short. I think it is rather long. I certainly should not like to vote upon it now, although I know there is no one here opposed to a good arbitration bill.

Mr. FLORY. I will yield to the gentleman from Kansas. You will all say it is a good bill.

The reading of the bill having been discontinued, Mr. Evans renewed his motion that the resolution be laid over until to-morrow and that in the meantime Mr. Flory be requested to furnish members of the convention with copies of the bill.

The CHAIRMAN. Mr. Flory, can you furnish copies.

Mr. FLORY. I may say that by applying to Mr. Decker, the assistant secretary, members will be furnished with copies of the bill.

The CHAIRMAN. They ought to be sent for this evening in order that we may have them in the morning.

The motion of Mr. Evans was agreed to.

NEW YORK.

Mr. COLE: On consulting the stenographic report of the convention of 1897 I find that I covered practically all the powers and duties of the board of railroad commissioners of the State of New York. The legislature of 1898 has imposed some additional duties on us. Heretofore the board has not had power to compel the installation of an interlocking switch and signal system at points where street railroads cross steam railroads at grade. This power has now been conferred, and it is authorized to apportion the expense of the erection and maintenance of such a system between the street railroad and the steam railroad. So, too, in regard to the location of wrecking tools in steam cars; the legislature of 1898 authorized the board to designate exactly where the tool boxes should be located. Prior to this enactment the board, under its general powers, recommended that such tools be located "at or near the center of the car." The reason for this recommendation was that in its experience the board had found that the tool boxes in many cases had been placed in a toilet room, or in out of the way places which were not generally observable, and usually in the ends of cars. The result feared was that in case of accident these tools might be jammed among the wreckage and not be accessible at the only time which justifies their existence. The recommendation of the board is being generally complied with, even without the spur of the legislative enactment referred to.

In its administration of the law which authorizes it to pass upon the public necessity and convenience for new street and steam railroads, the board has found that at times a portion of a street railroad should be built, and that perhaps the greater portion of the route applied for should not be built upon. The construction given by the board and the courts to the law was that the route must be considered as a whole. The legislature this year has authorized the board to grant such a portion of the route of a street railroad as seems to be required by public convenience and necessity and to reject the other portions. We have also been authorized to revoke certificates of public convenience and necessity granted to railroads in the future where, after two years of inaction, the company does not satisfy the board that its inaction has been compulsory and that it is its intention in good faith to construct the railroad.

It will be seen from what I said last year on this subject and from what I say now that no railroad (with the possible exception of railroads to be constructed under the plans of the rapid transit commission of New York City) may be built in the State of New York without the consent of the Board of Railroad Commissioners. While this power seems to be a broad one, it must be remembered that the law provides for an appeal to the courts, and the effect of the action of the board in denying an application is to put upon companies who seek to acquire the great powers conferred by law upon railroad corporations the obligation of convincing the courts, upon the record made by them before this board, that the railroad which they seek to build is a public necessity and will serve a public convenience. It has seemed to the legislature that it is a very proper obligation to put upon persons who, in the forms of corporate organizations, seek to impose a burden upon communities for their own gain primarily. It is also the policy of the State to protect from improper competition such railroad enterprises as it has in the past chartered and which are doing a public service at reasonable rates, over which rates the State has and does exercise control.

A twenty-dollar 2-cent mileage book law has existed in New York State since 1895. Restricted in several ways at the beginning, it has been so amended that now, under an act passed by the legislature of 1898, railroads which are more than 100 miles in length and which charge a maximum fare of more than 2 cents per mile must issue 500-mile books at the rate of 2 cents a mile, which books shall be good on any train in the hands of the owner or any member of his family or firm or any salesman of his firm. Until this act was passed \$20 was required to be expended at one time for a mileage book, and it was necessary to exchange the coupons therein for a ticket at a ticket office, the coupons themselves not being good on the trains. This act reduces the amount to be expended to \$10, makes the coupons good on the trains, and, generally, is so broad, that in one or two instances companies which have heretofore charged the lawful rate of 3 cents a mile have reduced their fares to 2 cents a mile and will not issue mileage books.

The grade crossing law referred to in my statement of last year has gone into practical effect, the State having appropriated \$100,000 for its share of the cost. Under the division of expense, this means that \$400,000 will probably be expended in our State this year in the abolition of crossings at grade of steam railroads. The board has passed upon a number of applications where it was sought to lay out new streets and highways at grade across railroads and in almost every instance has refused to allow the making of such new grade crossings. It determined that the street or highway should be carried either over or under grade, as in each particular instance it thought best. Applications are now being made to the board by street railroad companies for consent to cross steam railroads at grade. In one instance, which the board has passed upon, it determined that the crossing must be made overhead.

Complaints as to freight rates are comparatively infrequent, and are usually adjusted without the necessity for a hearing and contest. Two or three complaints are now pending which seem to involve questions of interstate commerce. The board is considering the question of turning these matters over to the Interstate Commerce Commission, in accordance with the provisions of section 13 of the act to regulate commerce, we being the complainants and transmitting the original papers on file with us to the Interstate Commerce Commission.

Automatic couplers and brakes on freight cars have been very generally adopted in New York State. From reports recently made to the board it appears that more than 40 per cent in number of the freight cars reported—an effort was made that the reports should be complete—have been equipped with air brakes. Our State law requires that 10 per cent of all freight cars owned or operated within the State of New York shall be equipped each year with continuous power or air brakes. This act went into effect in 1893. The board has this month exempted the companies of this State from the necessity for the 10 per cent equipment during the years 1897 and 1898. The companies, however, are generally proceeding with the equipment, and the fact that slightly more than 40 per cent of the cars have been equipped by this time—a complete compliance of the law requiring 50 per cent to be so equipped—indicates that, under the circumstances, the companies are endeavoring to comply with both the spirit and letter of the law. In December last the board granted an exemption until December 31, 1899, for complete equipment with automatic couplers of all freight cars hauled upon railroads in this State, and believes that by that time all the freight

cars in this State will be equipped with automatic couplers. (See annual report, Page XLIII.) I may say that of the 242,521 freight cars owned and leased by the roads operating in New York State on December 1, 1897, 169,359 were equipped with automatic couplers.

I do not think I should close without reference to what is known as the Garrisons accident. (Annual report, page LXII.) This, you will remember, occurred October 24 last, on the Hudson River division of the New York Central and Hudson River Railroad, a short distance below Garrison's, which is opposite West Point, on the Hudson River. The board made an exhaustive investigation without being enabled to form a conclusive opinion as to the cause.

Mr. Cole read extracts from the special report of the commission on the accident, and stated some additional facts in explanation of the possible or probable causes of the disaster.

The CHAIRMAN. I desire to announce the committee on organization and programme. They have the fixing of the time for the election of officers and the manner of the election, and various other duties. I will therefore appoint that committee now, as follows:

Ashley W. Cole, of New York; Wm. W. Ainsworth, of Iowa; Edward A. Moseley, of the Interstate Commerce Commission; Wm. W. Wedemeyer, of Michigan, and Nathan Kingsley, of Minnesota. That constitutes the committee on organization.

I do not want to presume to suggest to the convention, but it is almost half past four, and they hope to have the report of to-day's proceedings printed and ready for us to look over to-morrow morning. For that reason we can not hold too late a session, and I would suggest to the convention that we will have plenty of time to-morrow to complete our work. What is the pleasure of the convention—that we continue, or that we adjourn and attend to our committee work?

Mr. KINGSLEY. I move that we adjourn until to-morrow morning at 10 o'clock.

The motion was agreed to, and the convention adjourned accordingly.

SECOND DAY'S PROCEEDINGS.

MAY 11, 1898.

The convention met at 10 o'clock a. m. pursuant to adjournment.

The CHAIRMAN. Gentlemen, we will proceed with the regular order, which is the calling of States on powers, duties, and work of railroad commissions. The last State called was New York. The secretary will proceed with the roll call.

NORTH CAROLINA.

Mr. ABBOTT. Mr. Chairman, the chairman of our commission does not seem to be present. I will therefore present the report of the commission.

Mr. Chairman, the railroad commission of North Carolina was established in 1891 by an act to provide for the general supervision of railroads, steamboat or canal companies, express and telegraph companies, and since amended to include telephone and street railways.

The act provides for three commissioners. These commissioners are elected by the general assembly. Their term of office is six years, and one commissioner is elected every two years.

The board of railroad commissioners are invested with judicial powers; authorized to hear and decide complaints; to make, revise, alter, and approve the tariffs of railroads, telegraph, telephone, and street railway companies; to make rules for the interchange of traffic between railroads; to hear and adjust differences between them; to prevent unjust discrimination; to examine books and papers of railroad companies; to require the filing of such reports as may be deemed necessary; to require repairs deemed necessary upon any railroad, or addition to or change of station or station houses; to make rules as to contracts between railroads, rules as to trackage, etc.; to investigate complaints of discrimination on interstate traffic, and, if sustained, to bring such complaint before the Interstate Commerce Commission for redress, in accordance with the provision of the act of Congress establishing said Interstate Commerce Commission.

The commission is also a board of appraisers for railroads, telegraph and steamboat companies, and a board of equalization for all classes of property. The act has been judicially construed in its vital points by the highest courts, and in every essential particular has been upheld.

There were 101 cases heard by the North Carolina railroad commissioners during the year 1897. These were complaints of overcharges, discrimination, lost freight, damages, petitions for depots, reclassification of freights, etc. Many of these were settled by correspondence, the transportation companies responding promptly upon their attention being called to them by the secretary of the board. In fact, nearly all of the complaints were satisfactorily settled without the attendance of the plaintiff.

There have also been many cases relating to interstate traffic over which this commission has no direct jurisdiction, but in nearly every instance these complaints have been settled without annoyance, delay, expense, etc., of referring to the Interstate Commission.

Copies of all tariffs issued by transportation companies are required to be filed in the office of this commission, and shippers have learned that they can always get quick answers as to rates applying to and from all points in the State, and there are a great many daily inquiries as to these rates which are promptly answered by the chief clerk, H. C. Brown. Indeed, the correspondence carried on by him is constant and voluminous. He gets all the information necessary to an intelligent presentation of the complaints to the commission, so that they are settled without any expense to the plaintiff.

Permission was granted the Raleigh and Gaston Railroad to straighten its road at a point not far from Weldon, so as to avoid a very sharp curve and heavy grade. Changes of tariffs for different roads have been made and rules for switching and transfer charges.

Freight on firewood, carload lots, reduced 25 per cent.

Rates for transmitting telegraph messages over Western Union lines were reduced from 25 cents for 10 words to 15 cents for 10 words and 1 cent for every additional word, to and from all points in the State. The Western Union obtained an injunction restraining the order, and the matter has not yet been settled by the court. We are awaiting with a great deal of interest for this matter to be settled.

A uniform rate on cotton, applicable to all roads, was made. Several changes in classification were made which reduced rates on commodities, and several new station houses were ordered built.

The most important hearing before the commission during the year was in the matter of assessment and taxation and revision of freight and passenger tariffs. There was an increase of about \$3,000,000 in the assessment of railroad property last year. The matter will be taken up again, and probably there will be an increased amount this year.

Total number of miles of railroads in North Carolina.....	3,422
Capital stock	\$53,045,228.00
Funded debt.....	42,776,462.00
	<hr/> 95,821,690.00
Gross earnings, fiscal year of 1897.....	11,252,359.00
Operating expenses	7,657,786.00
	<hr/> 3,594,573.00
Less taxes	270,000.00
	<hr/> 3,284,573.00
Net earnings.....	<hr/> 3,284,573.00
Net earnings per mile	959.84
Capital stock per mile.....	15,501.00
Funded debt per mile.....	12,500.00
	<hr/> 28,001.00

In regard to the revision of freight and passenger tariffs, the experience of the North Carolina railroad commission during the last eight months has possibly been unique. While the subject has been of great interest to the railroad commission and to the people of North Carolina, it probably is not of sufficient importance to be of interest to this convention, and I will not allude to that.

The chairman of the North Carolina railroad commission is now present. The report that I read only covers the work up to the 1st of January last, at which time there was a change in the commission. The chairman, perhaps, may have some further report to make.

The CHAIRMAN. If there is any further report to be made from North Carolina we will be glad to hear it now.

Mr. CALDWELL. Under the operation of the statute of North Carolina and the powers vested in the governor, the commission was changed on the 21st of last September, but the majority of the commission remained in office until the first of the year. Dr. Abbott, the retained commissioner from last year, has made his report up to the 1st of January. Since that time the commission of North Carolina has had under advisement several matters. One thing I want to call attention to is the question of telephone rates. Our statute gives us a right to regulate them and we have revised the telephone charges in North Carolina. In some places they have been agreed to by the company; in other places they have gone into the courts upon the same thing; so, pretty soon we will know how that matter stands. We have also made a reduction of 20 per cent in our fertilizer rates, and I may say that the roads adopted the reduced rates without litigation. There has also been made a reduction of 10 per cent on corn rates, which enables the people of North

Carolina to transport their corn for that much less. The railroads complied cheerfully, saying they would try it for a year and see how it would go.

Another thing that the present commission has taken hold of and which has caused some discussion, has been the question of passes. The commission of looking to the reduction of passenger rates, first started at the root of the business of endeavoring to stop discrimination in the transportation of passengers. We found on the weaker of the three great systems in our State that they had 15,000 passes in operation in the State. The next largest had double that number, and the next had more than all of them; so we estimated that there was something like 75,000 or 100,000 passes in use in the State. We have stopped that, and we have stopped the use of passes by any person except those enumerated in the statute. It applies to the commissioners of North Carolina and to the governor and all State officers. I believe it is said that the commission caused the governor himself to disgorge a number of passes, and he, therefore, now pays his fare like everyone else.

We are in a healthy condition down there, doing the best that we can, and acting fair alike to the companies and to the people. We recognize the fact that we are not there to despoil any person or any company of their rights, but to hold the scales in evenhanded justice.

I heartily indorse the report of Dr. Abbott for the time which it covers.

OHIO.

Mr. KAYLER. I will preface what I have to say with a brief sketch of the different periods through which the railroads of Ohio passed until the first commissioner was appointed; and what is true of Ohio is probably true of all the States of the Union in this respect.

We have had the period of enthusiastic construction, when every community was anxious to have a railroad at its door. During this period the State took the initiative in the building of every new railroad, and backed it up with credit and financial support. Cities subscribed large amounts to the capital stock and donated valuable tracts of land for the railroads to build shops, stations, and other necessary buildings on.

The few laws that were enacted were of the most favorable character to their interests; no such sandbagging legislation as has been enacted in recent years was thought of; they were looked upon as public benefactors, and indeed they were such, giving employment to thousands of men and making a home market for millions of feet of virgin timber that was used for cross-ties, bridges, buildings, etc., to say nothing of all the other material that it takes to make up the complete construction of a first class railroad. They were not all built first-class, and they are not to-day.

The business has been one of continued progression until we have at this time some as good and well equipped roads in Ohio as there are in any State, and perhaps, some as poor.

During the first or building period, quite a large number of roads were built within and through the State; no one having any control over the matter representing the State, there were more roads built probably than there ought to have been, for the good of the investors,

as the period of bitter competition which followed fully demonstrated. They could not all be made to pay under separate managements. Combinations and consolidation then began, the larger companies either purchasing or leasing for long terms of years the smaller roads and combining them into great systems, until to-day we have in the State ninety-one distinct railway corporations, operated as follows: Twenty-six by seven foreign companies; thirteen by interstate companies, operating lines under lease or contract, in addition to lines representing corporate name; eleven interstate lines, and thirty-seven exclusively Ohio companies operating forty-one roads, giving employment to 62,000 persons, representing a total capital stock of \$371,353,547.23 as Ohio's proportion, which sum amounts to \$42,529.75 per mile, as we have, according to the last reports, 8,730 miles of main track in the State. This does not include second, third, fourth, or yard tracks, of which we have 4,139.06 miles.

Quite a long period elapsed from the first construction of railroads in the State in which almost entire freedom from interference was granted them. They managed their business to suit their own ideas; but when the railroad business had reached such a magnitude that they began to encroach on the rights and privileges of the public and private citizens as well, it became necessary to enact laws restricting them to certain limits for their own good as well as that of the commonwealth of the State.

A great many laws were enacted defining certain rights and privileges that the railroads were entitled to, and pointing out very clearly their obligations to the State and their duties to the public. Then it was that it became necessary for the State to have direct supervision over them, to the end that any violation of the laws that had been enacted might be reported and the laws enforced.

In the year 1867 a law was enacted empowering the governor to appoint a commissioner of railroads and telegraphs, to be confirmed by the senate, term of office to last two years, and to have general police supervision over all railroad and telegraph lines within the State. The powers have not been curtailed since the creation of the office, but on the contrary have been increased through the enactment of additional legislation at nearly every succeeding session of the general assembly, and as a consequence the duties have increased proportionately.

The general introduction of electricity as a means of transmitting sound between given points brought the telephone lines under the jurisdiction of the office. When electricity began to be applied as a motive power for propelling cars the interurban electric railways were naturally placed under the control of the department.

The police powers over the roads in the State of Ohio makes it the duty of the commissioner to inspect all railroad, telegraph, and telephone property where elements of danger might exist. He has the power to stop the use of any unsafe appliance, track, or bridge. He acts as an arbitrator between cities and villages and the railroads when they are unable to agree upon protection at certain street or highway crossings, designating how such crossings shall be protected. He also acts in the same capacity between the railroads when they are unable to agree as to the protection that shall be provided at grade crossings already established, fixing the proportion of the cost of such protection that each road shall pay. The protection of grade crossings by interlocking has barely commenced; in Ohio, out of 845 crossings at a common grade, we have but 110 protected by interlocking, most of which have been put in during the past ten years.

Our attorney-general has decided that the city street railways of our State are not under the jurisdiction of the commission, only so far as overhead construction is concerned. I still maintain that I have jurisdiction, and that matter will probably be decided in the courts. We have one case in the courts now, and it will probably be decided whether or not the commission has jurisdiction under the police powers of the State. Our laws require the railroads to submit blue prints or drawings of all such safety appliances to the commissioner for approval, and all work of this kind must be inspected and accepted by him before being put into operation.

He also acts as an arbitrator between the interurban electric and steam roads where they cross each other at a common grade, provided they can not agree as to the kind of a safety appliance that shall be installed at such crossing. A law was enacted April 27, 1896, providing that any railroad or electric railroad seeking to cross a road already built, at a common grade, the railroad or electric railroad seeking to cross should be compelled to interlock such crossing and pay all cost of such appliance and the future operation and maintenance thereof.

The electric street railway people felt that this was a great hardship to them, as the whole burden fell upon the junior road. Great pressure was brought to bear upon the members of the last legislature to have the law amended in such a way that the junior road pay all costs of installation and appliances, but that the cost of operation and maintenance be divided equally between the roads interested. This amendment was passed. The kind of safety appliance to be used is left to the decision of the commissioner. This seems to meet with the approval of both the steam and the electric roads.

Our roads now are making a great clamor for having these crossings protected by interlocking, and a great deal of our work is hearing cases of that kind and crossing cases. We had last year, I think, 425 cases altogether—hearings.

The commissioner investigates all complaints of discriminations and reports his findings to the governor or to the legislature, if in session, but has nothing to do with the fixing of rates, either for passengers or freight.

All accidents, where persons are killed or seriously injured, are investigated, and a record kept of the cause. We have numerous other powers and duties, such as preparing forms for receiving statistical reports and reports of accidents, and keeping complete records of the same, compiling annual report, etc. We follow the interstate forms very closely in this; but you may no doubt have observed that, although we belong to the group of States that have one commissioner instead of a board of commissioners, our powers and duties differ somewhat from other States, owing to the nonuniformity of the laws in the different States; and here let me say that it is my opinion that one of the great goods to be accomplished toward strengthening the efficiency of the railroad commissions and to relieve the railroads is to work for more uniform laws. Especially would this apply to our great interstate lines.

Let me give you an instance of the injustice, and I might say useless injustice, causing annoyance both to the commissioners and to the railroads and a double expenditure of money. We have a law in the State of Ohio compelling the railroads to equip all passenger coaches with fire extinguishers of a certain capacity. Michigan's law provides that all passenger cars shall be provided with hand grenades. We have a number of roads, as you know, running through Ohio and into Michigan,

and, in order to meet the requirements of the laws of both States, they must be doubly equipped, which is unfair, unjust, and an unnecessary burden upon such roads. The railroads are not limited by the jurisdiction of any one State or of any one commission. The control of a State and a commission stops at the boundary lines; the railroad goes on into another State and under a different system of legislation, thus being brought into contact with varying laws and protected or embarrassed at the will of the people of the different States. Each State commission or commissioner exercises its peculiar power upon it; at the same time the railroad is supposed to give equal facilities to all of its patrons regardless of State or district boundary lines. It is not possible for them to render the best service that might be provided when the laws governing them are so varied in the different States through which they operate.

A railroad corporation is an industrial combination. It has certain duties to perform for the public. To check it by unwise legislation in one State impairs its functions in another, making it impossible to maintain a uniform system of operation and at the same time obey the laws in the different States when they are at such a variance.

In regard to new legislation, we have only had since last year five enactments. Three of those were amendments to laws already on the statute books. We had one new law in regard to the carrying of bicycles as baggage and another in regard to the construction of telephone and electric wires and wires of all kinds over steam roads. We have had a great deal of trouble from this source. The wires were put up on very cheaply constructed poles with single cross irons; but we now have a law that poles shall be of certain height, and set in the ground one-sixth of their length. Double cross irons shall be used, with glass insulators, which makes them very substantial. All wires shall also be 25 feet above rails of the steam roads.

We also have a law similar to the interstate law in regard to the equipping of freight and passenger cars with couplers and air brakes. That was extended until 1900, to conform to the extension granted by the Interstate Commerce Commission. It goes still further, and provides that 50 per cent shall be equipped this year. This will perhaps be a hardship to some of the roads in our State, but most of them will be able to meet it without any trouble. They will have to report to the commissioner every six months as to how they are progressing. We had another law amended this year, providing that all frogs and switches shall be blocked with metal blocking instead of wood. A great many of the roads, not only in our State but in other States, have been blocking entirely with wood. I do not consider it a good blocking, as it is so apt to become crushed or split, thus making it a menace rather than a protection. We had in our State last year one fatal accident, and 20 persons seriously injured through the improper blocking of frogs and switches.

Another amendment related to the interlocking law. Electric roads are reaching out all over the State, and the old law required that they should be provided with regular interlocking devices where they crossed steam roads at grade. I do not believe that it is ordinarily the right thing to interlock the electric roads with steam roads by the regular interlocking device. In some cases it might be practical. We do not believe it to be practical in a city where there are many crossings. We have only one so interlocked in the State of Ohio and that has been brought into court to test the constitutionality of the law. What

we need to strengthen the commissioner is a law that would give him the right to say in future whether a grade crossing shall be established.

I had a case at Cincinnati, where it would have been a very nice place to have made an overhead crossing between a city street railway and the Pennsylvania railroad, but they put in a sort of electric interlocking in connection with the deraul to protect the crossing, and it was only a short time until they had an accident there. The motor man came down there one day, the conductor got off to go ahead to throw the lever, and when he got there a train was in the circuit and he could not throw it, but the motor man started ahead and got on the track of the steam road and his car was cut in two. No one was hurt, because no one was on the car. The track was bonded 3,000 feet in the direction from which the train was coming and 2,000 feet in the opposite direction. Now they are considering the advisability of putting an overhead way there. So I think we ought to have the power to say, at least where it is practicable to go over or under, that there should be no more grade crossings established. I think, too, our commission could be strengthened by determination as to the powers we have over city street railroads. But that will probably be settled now in a short time by the courts.

PENNSYLVANIA.

Mr. LATTA. The adjustment of freight rates and passenger fares, as was said in the communication made last year to the convention, are outside of public authority in Pennsylvania. The general railway law and charters granted previous to its enactment prescribe a maximum for each. This maximum has never been exceeded, and the powers of the internal affairs department have consequently never been invoked for intervention. Neither is there supervisory power over construction nor authority to regulate grade crossings. The legislature seems indisposed to disturb the established usage. A bill to prohibit other than existing grade crossings outside of cities, and providing that in fatal accidents the railway bureau should investigate and fix responsibility, was viewed as an innovation and promptly relegated to the rear. A radical measure creating railway commissioners, whose scope of authority was to absorb the minutest detail, met with similar disposition. Aside from the sudden and radical disturbance this measure sought to effect, it seriously clashed with certain well-understood constitutional requirements. An act compelling each railway company to recognize the mileage books of the other companies met with united opposition of the higher class roads and was promptly killed. The faulty construction of the concluding section—"This act shall take effect immediately upon its passage and become a law three months thereafter"—did much to hasten its demise.

Legislative attention may have been diverted from the grade-crossing question by the manifest determination of the through thoroughfares to work out the problem for themselves. With municipal cooperation this determination has reached closer to successful consummation, not only where old-established railway rights seriously impeded street traffic in built-up centers, but also where the area of cities included large rural districts. Scarcely any roads within the suburban limits of the larger cities now cross railways at grade, and with elevation and subway the difficulties of street travel have been greatly relieved. Neither has municipal assistance been the sole incentive to this determination. Outside the large cities, notably upon the main line of the Pennsyl-

vania, the grade crossing for many miles has disappeared entirely. The diversion may continue, and legislative action be further stayed, if the general abolishment of the grade crossing shall at all approximate the voluntary adoption of the automatic coupler, now largely, through the lenient enforcement of the law requiring its introduction, so universally acceptable.

Construction is controlled solely by corporate management. The gauge even may be established of such width as the directors may deem expedient, or changed or altered as they may will it. Yet the gauge everywhere is the universally adopted gauge of the country, and the construction so substantial as to invite attention and offer the best security to person and property. This stability of construction has doubtless had its effect in halting proposed supervisory legislation, toward which, indeed, the railways have never extended encouragement. The highest skill and best ingenuity to insure the safety and warrant the security to which traffic and travel are entitled seem to be assured in Pennsylvania. The maintenance of her ways has continued and improved the substantiability of the original superstructure. There are but two instances in latter years, brought unofficially to the notice of the department, where accidents were due wholly to errors in construction or to faults in maintenance. They occurred on roads laboring under temporary embarrassment, and their restoration to credit has long since corrected the evils.

Pennsylvania railway investment is still progressive. Several important roads are in process of construction, and the completed new mileage during the past year aggregates 63.87 miles. Thirty-four additional steam roads have been chartered, forty-eight street and fifteen telegraph and telephone companies.

The bicycle, in estimation at least, has latterly been deemed a factor, where conditions favor its use, in the shrinkage of street railway operating income. The first time, perhaps, that this belief was sought to be effectively tested was in the effort made in that direction at Harrisburg in the fall of last year. I quote from the report of the superintendent of the bureau of railways for the year ending June 30, 1897:

There are many street-railway corporations whose lines have been constructed and are now subsidiary to the corporations that are carrying on the operations. In consolidated Table C will be found the gross earnings from operations, the total of which is \$18,879,649, and also income from other sources amounting to \$8,516,840, or a total income from operations and other sources of \$27,396,489. If comparison be made between several of these corporations with reference to income from operations, it will show that the receipts have fallen off in a measurable degree from those of last year. It can not be assumed that this decrease in revenues is due to the depressed business condition that has existed for the past few years, as on all sides there are signs of improvement that ought to have swollen to some extent, at least, the receipts of the street railways from operations. The cause must therefore be attributed to something else. In all probability the use of the bicycle by business people and pleasure seekers is the prolific source of the reduction in the receipts of many street-railway companies. In cities where favorable conditions do not exist for the use of the bicycle—where the hills are steep and not easy of ascent or descent—the railway companies probably have not been affected by the use of the wheel to so great an extent, but in cities like Harrisburg and many others it can not be gainsaid that the bicycle has become a most serious competitor of the railway.

By reference to the report of the Harrisburg Traction Company it will be seen that there has been a perceptible falling off in the revenues from operations for the present year as compared with last year. Certainly the business conditions of Harrisburg during this year have been as favorable for good receipts for the railway company as they were last year, but any one who observes the general use of the bicycle on the paved streets on which the lines of the street car company are located will see that there are many more persons passing upon wheels than in the cars. What proportion of these people are going from one point to another on business or what

percentage is made up of pleasure seekers can not, of course, be ascertained with any degree of accuracy. The fact remains, however, that many more persons travel the streets on bicycles than patronize the cars. To reenforce this view of the case an observation was made on Third street of the city of Harrisburg during the month of October, 1897. The observation covered two days. The weather was not particularly favorable to the use of bicycles, nor was it of such a character as to induce an unusual patronage of the street cars.

The period covered was from 7 in the morning to 6 in the evening. During that time 6,078 persons passed a given point, 1,962 in the cars and 4,116 on bicycles; 67.7 per cent on bicycles and 32.3 per cent in the cars, or more than 2 to 1 in favor of the wheel. To what extent this large number of bicycle riders affected the receipts of the Traction Company can only be conjectured. It can not be denied, however, that of this number a considerable percentage would have ridden in the cars, either as a means of getting from one point to another, on business, or in pursuit of pleasure, and to the extent that such persons would have patronized the cars just to that extent the receipts of the company have been affected.

Similar conditions will be found in nearly all of the larger towns of the Commonwealth, and it is safe to state that the bicycle, as before asserted, has become a most formidable competitor of the street railway companies, and that it has been the cause of a great reduction in the receipts of these corporations.

The semijudicial powers of the department were invoked in but a single instance since the last report to the convention. The Western New York and Pennsylvania Railway declined to furnish, upon the request of a shipper, the weights of certain carloads of bark shipped by him over its road to the Queen City Tannery. The shipper lodged complaint, and upon demand from the department the railway company still persisted in its refusal, disclosing as its reason that it was upon the request of the consignee. The time and place were then fixed for a hearing, when, apparently upon advice of counsel, the consignee withdrew his objection; the information was supplied and the proceedings fell.

I can not fairly conclude this communication without again commending the intelligent zeal which emphasizes the management of the railway bureau.

SOUTH CAROLINA.

Mr. WILBORN. At the meeting in St. Louis the workings of our commission and our laws were very fully set out, so at this meeting we have no report prepared. I will state, though, for the information of those who were not present at St. Louis, the general scope of the railway law in South Carolina.

The commissioners have the power to make freight rates on every article that is hauled by the railroads in South Carolina. They also have power to establish and to make passenger rates for the roads, which they have done from time to time. At the recent meeting of the legislature of South Carolina two powers were given to us that we had never had heretofore; that is, the power to regulate rates of express companies, and also to regulate the telegraph companies of the State.

Our commission has from time to time established rates, but we invariably give the railroads a hearing. They come before us and with very elaborate arguments they present their case; after that the commission decides the matter and promulgates its orders, and they have been obeyed for several years. There seems to be no friction at present between the people and the railroads or between the railroads and the railroad commissioners in the State of South Carolina, save on one point. We have a law which makes it the duty of the commissioners to order the railroads to build union depots and other depots. We have found some places where the traveling public has not been

accommodated in the way of depots. We have had some trouble in that way only because of delays on the part of the railroads. They are proverbial for wanting to delay everything. They want to put it off. They want to procrastinate. That is the greatest complaint our commission has against them. We had a suit pending in court for the establishment of a union depot at the crossing of two railroads and where another road runs into the same town. This last spring we pushed it vigorously, and before trial could be had, after a year's delay, and probably two years' delay in correspondence, the depot was erected and, of course, that ended the suit. I believe that is the only litigation we now have in the State of South Carolina.

Mr. COLE. Did your commission have to pay the costs in that suit?

Mr. WILBORN. No, sir; we got what we wanted.

In South Carolina we establish a rate. The law then imposes a very heavy penalty for violation of the rate that we have established. If the roads carry goods for you and charge you higher than for Jones, Smith, and others, they are subject to a heavy penalty. And when they fail to obey any order the law is very explicit on that. We have recourse to the courts for the purpose of collecting these fines, and that is the whip by which our orders are carried out in the State of South Carolina.

Mr. WESSELIUS. Can you tell us what the rate per ton per mile is in your State?

Mr. WILBORN. I do not remember exactly, but it is near three-fourths of a cent per ton per mile.

Mr. COLE. When your commission fixes a rate upon a given article of traffic, do you meet first as a commission? I am asking this by way of enlightenment for myself. In New York State we possess no such power as that. We possess some powers considerably greater and have a wide range of authority, but this is the particular one that is withheld from us, and I am in quest of information as to how we should proceed as a commission if we were vested with such power as that. Under the law one member of our commission is required to be a man versed in the railroad business. That is the language of the law, and of course he would know something about it. I am not a railroad man. What I desire to get at is the method by which a commission makes up its mind as to a proper rate on any article.

Mr. WILBORN. In reply to that question, I say we have organized just as any other body would, electing a chairman, who signs all official papers. We also have a secretary. We are empowered to call witnesses and have them summoned before us. We act as commissioners, with special powers delegated to us from the legislature, and we proceed just as any organized body would, just as any court would. In other words, we act in that capacity, and every order that is promulgated is recorded and signed by our chairman and secretary officially, and the courts accept that as the order of the commission.

Mr. COLE. Do you take the testimony of shippers and railway men under oath?

Mr. WILBORN. Oh, yes.

Mr. COLE. The shipper testifies as to what he thinks he can afford to pay?

Mr. WILBORN. Anything he wishes.

Mr. COLE. What a commodity will stand?

Mr. WILBORN. Yes, sir.

Mr. COLE. And the railroad man testifies as to what he thinks the commodity ought to stand?

Mr. WILBORN. Very often when we get them before us they get so close together that they ask to have a conference, and the shipper is satisfied and the railroad officials are satisfied. It generally results in a reduction of the rate satisfactory to all sections.

Mr. WESSELIUS. Do you take into consideration the cost?

Mr. WILBORN. Yes, sir.

Mr. WESSELIUS. The stocks and bonds of the companies?

Mr. WILBORN. To a certain extent.

Mr. WESSELIUS. As to whether they shall earn a fair return on what it is bonded and stocked for—as to whether it is bona fide stocked and bonded?

Mr. WILBORN. We investigate those matters very thoroughly. We try to find out as best we can, which is a very difficult matter—and by the way, I would like to hear other commissioners on that question, as to the cost of transportation. We try to find out the cost, or present value. All have gone through the hands of receivers though not by any act of the commission. I think the roads themselves will tell you they have not been forced by the action of the railway commission into the hands of the receivers. But nearly all have been in the hands of receivers appointed by United States courts and, of course, we may examine the court records—we give that consideration.

We sometimes find that an article produced in a certain community is driven out of the market. It is not long then until you can convince the carrier that it is its duty to reduce the rate so that the article will move.

Mr. WILLCOX. Are there appeals from your orders to the courts?

Mr. WILBORN. O, yes; all through the courts. We generally go to the Supreme Court. I have been a member of the board for the last three years and in that time we have had few appeals from our orders.

The CHAIRMAN. I want to ask your indulgence just a moment. I desire to bring up a question which I mentioned in my opening address, and I suggest that the convention authorize the appointment of a committee upon the question of ascertaining the fair value of railroad properties.

Mr. DILLARD. Upon that suggestion I move the appointment of a committee of five, to be appointed by the chair.

The motion was agreed to.

Mr. HENNESEY. If a committee has been appointed to get this information and submit it to the next convention, I do not see the use of

occupying all this time in hearing from the different States. I think it is a waste of time.

The CHAIRMAN. You misunderstood me as to the committee.

Mr. HENNESEY. Not in reference to this last committee, but another committee already appointed. I understand a committee was appointed yesterday to get all this information and submit it to the next convention. Now, if that is the case, I think it is a waste of time to hear from the different States. We have other important matters that we would like to get away with first.

The CHAIRMAN. In reply to the gentleman from Missouri, I desire to say that no such committee exists. The only committees appointed yesterday were, one for the purpose of offering such recommendations on President Ingalls's address as they thought proper, and another on permanent organization, and the report of the committee now before the convention is the report of the committee on the powers, duties, and work of railroad commissions. Under the authority of the Chairman of that committee a suggestion was made to each one of the State commissioners to make that report in person. We are now hearing those reports, and it is perfectly in order. The secretary will proceed with the roll call.

SOUTH DAKOTA.

Mr. TOMPKINS. South Dakota has no report to make, but in the winter of 1897 we adopted a new law which is practically the Iowa law. As yet the railroads and courts have not admitted that we have any powers or duties at all.

TENNESSEE.

Mr. THOMPSON. I am the only member of the commission that could be present at this meeting. In view of the fact that our commission was only created about the time or a little after your last annual convention we have no written report. We operate in my State under two laws. In April, 1897, the legislature of Tennessee passed a railroad commission bill providing for three commissioners and giving them power to fix rates. The same session of the legislature passed an assessment bill, a bill providing for the assessment of railroad, telegraph, and telephone properties, and the commissioners are ex officio tax assessors of this property.

The law requires the commission to take testimony as to the original cost of construction; as to the present condition and cost of construction or replacement as compared with the original cost; and the present condition and value of all of their engines and cars; as to the amount of capital stock and bonded indebtedness, and the market value of the same. From all these things we fix a value and certify that record to the board of equalization, composed of the governor, secretary of state, and treasury. This required some six or seven months' time, and resulted in the increase of the assessable value of the property to the

extent of \$33,000,000. That has brought about some pretty serious litigation. That litigation has been pending since, so that the entire time of the commission has been taken up with the assessment, except in one case. There is a case at Knoxville. This commission is also required to look into through rates and ascertain the facts and take proof as to through rates, and make recommendation to the Interstate Commerce Commission, and in one case we have done so, and I have the record here with me of that case.

The CHAIRMAN. I desire to say that in reply to the letter which I sent to the commissions, the commission of Texas sent a written report, which the secretary now has in his hands, and I desire to know the wish of this convention as to the manner in which we shall dispose of it. Do you desire to hear it read?

Mr. KINGSLEY. I move that the secretary read the report.

The motion was agreed to.

The assistant secretary read the report, as follows:

TEXAS.

AUSTIN, TEX., *April 29, 1898.*

Hon. CICERO J. LINDLY,
Springfield, Ill.

DEAR SIR: Your letter of the 16th instant is before us, in which, in behalf of your committee, you request us to prepare a report or synopsis of the powers, duties, and actual working of the railroad commission of this State.

A full compliance with your request would require a large volume and more time than we could give for that purpose. We call your attention to the report which we made to the meeting of railroad commissioners, dated April 29, 1896, which appears on pages 59 to 61 of the printed proceedings for that year.

We add here a synoptical statement of some of the most important features of the legislation of this State in relation to railroads and railroad corporations. These references will indicate in a general way the scope and purpose of the legislation of this State on that subject. This legislation runs through many years and is quite voluminous, with ample details as to all its features.

We also send you a copy of our sixth and last annual report.

Railroads in this State are private corporations. They are also public highways. Our State constitution provides that "No corporation shall issue stock or bonds except for money paid, labor done, or property actually received, and all fictitious increase of stock or indebtedness shall be void."

Railroad corporations shall consist of not less than ten persons, and no railroad corporation can be formed until stock to the amount of \$1,000 to the mile of road to be built has been subscribed in good faith, and 5 per cent of that sum paid to the directors of the railroad company.

A railroad commission is provided for by law, to consist of three commissioners, with salaries of \$4,000 each. Term of office six years, one to be elected every two years. And it is invested with authority to adopt all necessary rates, charges, and regulations to govern and regulate railroad freight and passenger tariffs, the power to correct abuses

and prevent unjust discriminations and extortion in rates of freight and passenger tariffs on the different railroads in this State, and to enforce the same by having the penalties inflicted as by this chapter prescribed through the proper courts having jurisdiction.

The law also provides that the railroad commission of this State shall have power, and it shall be its duty, to fix and establish reasonable and just rates of charges for each class or kind of property, money, papers, packages, and other things to be charged for and received by each express company on all such property, money, papers, packages, and things which by the contract of carriage are to be transported by such express company between points wholly within this State.

Our stock and bond law provides that after its enactment no bond or other indebtedness shall be increased or issued or executed by any authority whatsoever, and secured by lien or mortgage on any railroad, or other franchises and property, over and above the reasonable value of said railroad property. And it is made the duty of the railroad commission to ascertain, and in writing report to the secretary of state, the value of each railroad in this State, including all its franchises and property. And it is provided that every judicial or other sale of any railroad in this State hereafter made, which shall have the effect to discharge the property so sold from liability in the hand of purchasers for claims for damages, unsecured debts, or junior mortgages against such railroad company so sold out, shall have the effect to annul and cancel all claims of every stockholder therein to any share in the stock of such railroad; and it shall not be lawful for said purchasers or for any railroad company organized hereafter to operate said railroad, to issue any stock in lieu of the old stock or allow any compensation therefor in any manner whatever, nor shall any part of the debt, to satisfy which such sale was made, be continued or held as a claim or lien on said property.

The capitalized value of the railroads of Texas in stock, bonds, and other liabilities on the 30th of June, 1897, was \$369,623,186. Their value as fixed and determined by this commission was \$141,192,215, and their average present value per mile was \$15,844 per mile. The net earnings for the operation of the railroads of this State was \$8,037,934. This gives 2.13 per cent interest on the stock and bond capitalization of these roads, and it gives 5.69 per cent on their valuation as fixed by this commission and 11.69 per cent on their value as rendered for taxation.

In our report to the eighth annual convention of railroad commissioners, before mentioned, we stated that we had made commodity rates and adopted class rates covering all articles liable to be shipped in this State, except lumber. We have not yet made rates on lumber for the same reasons as were given at that time, but we have during the past year made new and lower tariffs on several commodities, and have removed several articles from the application of class rates and made commodity rates on them, which were lower. Some of these articles are as follows: Live stock; wooden handles, spokes and fellies; ash, bois d'arc, and hickory timber and blocks; earthenware, stoneware and pottery; fire brick; wooden fence posts and house blocks; cedar logs and poles; agricultural implements; baking powder; beams, columns and girders; cotton gins, feeders and condensers, and cotton presses; fencing and railing; new furniture; jellies and preserves; machinery, engines and boilers; saddlery, harness and saddlery hardware; soap; cotton; pickles, condiments and vinegar; crude petroleum; cotton-factory products; coal and lignite, and candy and confectionery.

The general freight agent of one of our lines, using the actual movement over his road as a basis for the calculation, states that our reduction on cotton made during the year amounts on an average to 6.89 cents per 100 pounds, and we have no reason to doubt the substantial correctness of his conclusion.

The following statement may be of interest to you in this connection: For the year which ended June 30, 1891, which was the last year before this commission was organized, the railroads of this State performed a service equal to transporting 1,771,498,579 tons of freight 1 mile, and received for that service the sum of \$24,862,526.62, which is equal to 1.403 cents per ton per mile. For the year which ended June 30, 1897, the same roads (substantially) performed a service equal to hauling 2,424,331,313 tons of freight 1 mile, which is 1.091 cents per ton per mile. If for the latter year they had received the same amount per ton per mile for the service rendered as they did receive in 1890-91, their freight revenues would have been \$34,013,368.32. Their sworn reports to us show that their freight revenues were but \$25,720,752.65, which is a relative falling off of \$8,292,615.67.

There are other factors besides reductions in rates made by us which each in part tend to produce this result. We have always been very conservative in making estimates of the amount of reductions which resulted from our work, but feel safe in saying that for the year ended June 30, 1897, it was not less than \$1,300,000, and that for the current year (ending June 30, 1898) it will not be less than \$1,800,000, on account of the cotton crop of 1897 having been moved under our revised tariff, before mentioned.

While the freight earnings of the Texas railroads have decreased *relatively*, that is they have not increased in the same proportion that their ton-mileage has, yet, as a general rule, there has been a steady *absolute* increase in both their gross and their net earnings each year that this commission has been in operation. For the first seven months of the current fiscal year the net earnings of thirty-four companies which make monthly reports to us were \$1,847,700.92 greater than for the seven months ended January 31, 1897, notwithstanding the difference in the tariff on cotton, a staple which is moved principally during those months.

Comparing the average revenue per ton per mile received by the Texas roads during the year ended June 30, 1897, with the amounts given for the various groups in the Ninth Annual Report of the Interstate Commerce Commission, we find that it is less in Texas than in groups 1, 7, 9 (which includes the greater part of Texas) and 10, but is greater than in groups 2, 3, 4, 5, 6, and 8.

Mention was made in our report to the eighth convention of railroad commissioners of the fact that we had not then made rates of charges to be observed by the express companies operating in this State, mainly because they had no general offices in Texas where information was accessible which was necessary for us to possess in order to act intelligently in the matter. Since that time our legislature has passed an act requiring such offices to be established in Texas. More time was lost on account of the companies obtaining injunctions against our tariffs from Federal judges. But on February 14, this year, our tariff finally became effective, without further contest, and under its rates the people of Texas will save at least \$100,000 a year on the basis of the volume of business moved during the year which ended June 30, 1897.

Our statutes empower the members of this commission and such of our employees as we may designate to examine the books and records

of any railroad office in the State; and the last legislature having appropriated for the purpose of such examinations an amount not only sufficient to secure the services of competent expert examiners, but also to pay their expenses while engaged in the work during the last year, we have during that time by this means secured evidence establishing several hundred instances in which the railroad companies of this State have allowed rebates to favored shippers and otherwise made discriminations. Some of the railroad companies, on discovering the character and amount of evidence obtained, decided not to contest the matter in the courts, and have confessed in ninety-five cases, and paid the minimum fine of \$500 in each case, besides costs, thus resulting in the payment into our State treasury of \$47,500. We expect that some \$20,000 or more will be paid in by other roads within the next few months.

Yours, respectfully,

JOHN H. REAGAN, *Chairman.*
L. J. STOREY,
ALLISON MAYFIELD,
Commissioners.

The CHAIRMAN. The gentleman from Vermont was not in when that State was called. If he is now ready we will hear the report.

VERMONT.

Mr. STANTON. Mr. Chairman and gentlemen of the convention: One year ago, at St. Louis, I was appointed a committee to report at this time upon the powers, duties, and actual work of the board of railroad commissioners of the State of Vermont, and in response to this I ask leave to offer the following:

At our last convention Hon. Olin Merrill, who was then chairman of our board, gave quite a full report of the doings of the board for the year before, and as the powers, duties, and work have been practically the same, I can hardly add any new light upon this subject in this report. As he stated in that report, the State railroad commission as it now exists was established by an act of our legislature in the year 1886, and the powers of the board remain virtually the same to-day as when the law was first enacted. The board consists of three members, appointed by the governor and confirmed by the senate, and hold their office for two years. The commission is entitled to a clerk and he is appointed by the board. No person in the employ, or holding any official relations to a railroad corporation or management, or owning stock or bonds or other securities in a railroad corporation, or who is in any manner connected with the operation of a railroad in Vermont, can be a railroad commissioner or clerk of the same. The compensation and expense of the commission and clerk are paid from the State treasury, and the railroads are only required to furnish them transportation over their lines in their official duties.

The powers of the commission in Vermont perhaps are not as broad and extensive as in some of the larger States, and are principally confined to railroads operated by steam, and in only few instances have we jurisdiction over the electric or street railroads. Yet it would seem that the law gave us sufficient power to regulate all grievances and faults that the public welfare demands as far as steam roads are concerned. I would think, however, that as long as a State has a commis-

sion that it would be well to place electric roads in their charge the same as steam roads. Electric roads are practically new in our State, and no doubt as they become more numerous the State will see fit to do this. The commissioners have general supervision of all the steam railroads within the State, and have the power to examine the books, accounts, and papers of the same so far as it is necessary for the performance of their duties; also upon request a person or corporation operating a railroad in the State shall at all times furnish the railroad commissioners all information required by them concerning the condition, operation, and management of such railroad and the rates of fare and charges for transportation; also have the power to abolish grade crossings and apportion the expense between the town in which the crossing is situated and the railroad corporation.

And no new grade crossing can be constructed without the consent of the railroad commissioners, and in case a street railroad or other railroad desires to cross a steam road at grade they must obtain permission from the railroad commissioners, and such permission shall only be granted after a public hearing. The board has power to change freight or passenger rates, to order new depots, or old ones repaired, to recommend repairs on bridges or new ones built, to order better train service and better connections, better rolling stock, roadbeds improved, and any other thing that is reasonable or expedient to promote the welfare, security, and convenience of the public.

The duties of the commissioners in Vermont are similar in many respects to the duties of commissioners in other States, but Vermont being a small State, having only about 1,000 miles of main line within her borders, and nearly all of this is single track, it can be easily seen that our duties are small compared with the duties of commissioners in many of the large States, where many thousands of miles are under their charge, handling an immense volume of freight, and transporting more passengers in a single day than our road would carry in months. It has cost large sums of money to build the railroad in Vermont, as the country is mountainous and many rock cuts and fills have to be made with heavy grades, with curves so numerous that a straight line of any length is the exception instead of the rule; but notwithstanding all this most of the railroads in Vermont are in very good condition and well managed. Much credit is due the managers of our roads for their efforts in keeping their roads in good repair and looking after the safety and convenience of the traveling public. And with few exceptions the railroad corporations have willingly conformed to the recommendations of the board and seemed ever ready to comply with their request, although in some instances the expense has been large.

It is required by law that the commissioners inspect all the roads of the State annually, examine depots, bridges, crossings, roadbed, rails, ties, frogs, switches, etc., and see that everything is in good condition to run trains with safety.

They are required to investigate all accidents resulting in loss of life or serious injury, and to make this investigation a public investigation if they deem it necessary, and the general manager or superintendent of a railroad doing business in the State is required to inform the commissioners of every accident upon his road resulting in the loss of life or serious injury to any person immediately after its occurrence. And in fact it is the duty of the commissioners to be conversant with the wants of the people as far as railroads are concerned, and to look after their interests, but to ask the railroads to do that which is only just

and reasonable. We are required to make a report of the doings of the board to the legislature, which meets biennially; so only one report every two years is required.

The actual work of our board for the past year has been principally routine work; such as investigating accidents, attending hearings, inspecting the different roads, abolishing grade crossings, etc. We have had but two petitions within the past year for better train service. One was arranged satisfactorily to both parties and the other petition was dismissed. As to freight and passenger rates, no complaint has come to the board of unreasonable charges, and we are led to believe that both freight and passenger rates are as low as the roads of other States. Most of our roads sell 1,000-mile mileage books good to bearer at 2 cents a mile, and some of them make them interchangeable with certain other roads.

We have had a number of petitions from proposed electric roads to cross steam roads at grade and in some instances have granted them. In most cases the steam roads strenuously object to these crossings, and the board has been in doubt as to the best course to take in this matter. In some States these crossings are prohibited by law, and I am of the opinion that it would be better if every State would make the same law. Electric roads are fast coming into use all over the country, and many of them are built in localities where they desire to cross steam roads at grade. It is the policy of our board, and no doubt of other commissioners, to establish as few new grade crossings as possible and to abolish as many old ones as the circumstances will admit, but in some cases where they wish to cross it is almost impossible to make an over or under pass, and in these instances we have allowed them to cross at grade and placed these restrictions, requiring them to place a semaphore each side and a sufficient distance from the crossing, so that the engineer of the steam road coming from either way can see it in time to bring his train to a stop before reaching the crossing, and that the conductor of the electric road stop his car 50 feet from the steam track and go forward and place the semaphores at danger, and then move his car across the track, and then return it to safety, and have restricted the time to five years.

The roads in our State have been very fortunate as to accidents for the past year which resulted in loss of life or serious injury to passengers. I recall but one incident of this kind, and that was caused by the passenger's own carelessness. The greater number of accidents from any one source has been caused by trespassers or those walking on the track. Old men who are deaf, women, and children are frequently found walking on the railroad tracks or bridges, and fatal accidents often occur caused by this carelessness. People take these chances, and I know of no way to prevent it. We have had this matter under discussion on account of the frequent accidents from this source, but as yet the problem remains unsolved. Could this be stopped and grade crossings eliminated, the loss of life by railroad accidents in our State, I am confident, would be reduced more than one-half.

The ASSISTANT SECRETARY. I think there is a report from the State of Connecticut. The commissioner from Connecticut was not here yesterday.

The CHAIRMAN. Well, we will hear the report now.

CONNECTICUT.

Mr. SEYMOUR. The powers and duties of the commission having been quite fully explained in the reports of the two previous years, it seems hardly necessary to repeat that information this year. These duties are somewhat multiplied and extended at each session of the legislature as various exigencies arise requiring such extension. In accordance with the provisions of the present statute three commissioners are appointed by the governor, with the consent of the senate, for a period of four years, one of whom is required to be a lawyer of ten years' practice in his profession, one a civil engineer of ten years' practice in his profession, and the third member is required to be a good practical business man. The powers which these commissioners are to exercise and the duties which they are to perform are defined by specific statutes which have been accumulating since 1853, when the commission was first organized. Its duties are principally such as pertain to the safe operation of the roads, and it possesses no power to regulate rates for the transportation of either passengers or freight; hence it escapes much of the tribulation and anguish which seems to attend the exercise of that power.

The number of public hearings upon the various questions to be determined by the commission has been much less during the past year than for many year previous. They embrace the elimination of grade crossings, the condemnation of private property for railroad purposes; the protection of grade crossings with gates, flagmen, and electric bells; the extension of new streets across railroads; the extension of sidings for switching purposes across streets at grade to reach various manufacturing industries; the prohibition of whistling through thickly settled portions of cities and towns; the approval of the reconstruction of bridges carrying highways over a railroad; the prescribing of safeguards at the crossing of steam and street railroads at grade, and the placing of vestibules upon street cars in the interest of the public and for the protection of employees. Each steam railroad is inspected by the commission twice each year to ascertain if it is being properly maintained, and an annual report of the operation of the roads, in the form prescribed by the Interstate Commission, is prepared and presented to the governor of the State. The foregoing comprises a concise statement of the actual work performed by the commission during the past year.

The CHAIRMAN. That completes the roll call. I hold in my hand an article that was sent to me with the request that it be presented to this body. It is a copy of a bill, I think, that has been presented in the interest of railroad employees, and was gotten up by a gentleman in Illinois. It is very long. It simply provides for the appointment of commissioners and subcommissioners, and on down through the list. I think it would be well to refer it to our committee on legislation for action next year.

Mr. FLORY. I make a motion to that effect.

The motion was agreed to.

Mr. RAY. I have been reading the report of the commissioners of Connecticut, and I would like to have the privilege of asking the commissioner a question.

The CHAIRMAN. There is no objection.

Mr. RAY. I understand, under the law in Connecticut, that the commissioners have the power to prescribe the number of brakemen or employees upon the trains within the State of Connecticut. I would like to know if that law is operative, and to what extent.

Mr. SEYMOUR. It is. By reference to the report we made last year the gentleman will find a statement of the exact number on each train.

Mr. RAY. My question is how the commissioners of Connecticut determined the number of cars to be operated by one brakeman.

Mr. SEYMOUR. The trains on level roads running not to exceed fifty cars are provided with four brakemen if controlled by train brakes. On the uphill and downhill roads, like some we have in our State, the cars are so much less that the same number of brakemen will manage them. All express-freight trains are equipped with air brakes and managed by the engineer. Each individual case comes before the commission with the knowledge of the grades of the road upon which the train is to be operated, whether the train is to be controlled by air brakes or not, and is decided by the commissioners in view of all the facts as to the number of brakemen that are required to control that train safely. We apply no arbitrary rules in arriving at our conclusions. We do not specify, in other words, a uniform number of brakemen for a certain number of cars.

Mr. KINGSLEY. I will ask if there is a minimum number of brakemen required in Connecticut?

Mr. SEYMOUR. No train is run without two brakemen and a baggage master, who also serves as a brakeman.

Mr. RAY. As I understand the commissioner, on every train there shall be at least two brakemen.

Mr. SEYMOUR. Yes, sir.

The CHAIRMAN. Is there anything further to come under this report to this committee? If not, the next order of business will be the reports which were passed over yesterday.

Mr. COLE. I am a member of the committee of which Mr. Seymour is chairman. Mr. Seymour was not present yesterday when the report of that committee was called for—

The CHAIRMAN. I am going to commence at the first of those committees called yesterday on which action was postponed. We will hear the report of the second committee on the list, which is the committee on

CLASSIFICATION OF OPERATING AND CONSTRUCTION EXPENSES OF ELECTRIC RAILWAYS.

Mr. SEYMOUR. The full committee met with the Association of Railway Accounting Officers, and we have prepared a classification of the operating and construction expenses of electric railways, but we desire more time to submit the work to a committee composed of those who

represent the American Street Railway Association, in order that when this report is presented it may be a report substantially approved by those who are experts in electrical railroad construction as well as the Railway Accounting Association, which more distinctly represents steam railroad construction. Hence our report is not now in condition to be presented at this session, and we ask further time. We shall have it complete for presentation at the next meeting of the convention.

The CHAIRMAN. If there are no objections further time will be extended to the committee.

There was no objection.

The CHAIRMAN. The next order of business is the report of the committee on railway statistics.

RAILWAY STATISTICS.

Mr. ARCHER. I desire to offer a resolution from that committee.

The resolution was read by the assistant secretary, as follows:

Resolved, That the committee on railway statistics be directed to prepare and report to this convention at its next regular session forms and data looking to a system of uniformity in the compilation of railway statistics as returned by railroad companies to the Interstate Commerce Commission and the several State commissioners and commissions, and that the representatives of the same be requested to aid said committee by submission of a system of compilation now in use and amendatory thereto.

The resolution was adopted.

GRADE CROSSINGS.

Mr. BROWN, of Pennsylvania. I ask unanimous consent to offer a resolution. I do this for the reason that it may involve considerable time if discussed by this convention, and if adopted I suppose that the chair would want some time to select the committee. I offer the resolution for the reason that in all the reports which have been made from the different States of the Union the question of grade crossings has attracted attention and serious consideration. It is a living problem and is divided into a question as to the abolition of grade crossings—the gradual abolishment, as they now exist—and a question of preventing grade crossings in the future construction of railways. I beg to submit the following resolution:

Whereas it is admitted that grade crossings are among the most prolific causes of fatal accidents in the operation of both steam, electric, and street railways; and

Whereas uniform legislation on the question of grade crossings, as well as all other legislation relative to construction, maintenance, and operation, is desirable in all States of the Union: Therefore, be it

Resolved, That the chair be, and is hereby, authorized to appoint a committee of five for the purpose of preparing a bill providing for the gradual abolishment of the grade crossings now in existence, and for the prevention of grade crossings in future construction of railways, which bill shall be submitted for the consideration of the convention at its next session, with a view of having it when considered and approved by this body commended for enactment to the legislatures of the several States of the Union.

Mr. KAYLER. I move the adoption of the resolution.

Mr. COLE. I would like to suggest whether it is possible for any committee to frame a law that will be adaptable to the States generally. The State of New York has had much occasion during the past year or two to consider this question. We have passed a general grade-crossing law which, I think, is most elaborate and we have endeavored to make it effective. We borrowed from all States which had legislation on that subject and took the advice of the most experienced railway men in the State and utilized a small army of railway lawyers, county and city officials, civil engineers who represented cities and State officers who were identified with public works. We have in the State of New York 9,000 grade crossings, of which something over 7,000 are unprotected. We regard grade crossings as unprotected which have not gates or flagmen. The electric-bell device which we have required many railroads to put up at various crossings is not a satisfactory protection, but we regard it as contributing largely to the safety of the crossing; and the railway companies are really so amenable to the suggestions and recommendations of our commission that they almost always acquiesce.

The conditions that exist in the State of New York, of course, do not exist in all States, and what you may call an effective grade-crossing bill involves necessarily a question of appropriation—the appropriation of money for the purpose. It involves the question of whether a State would or would not regard itself as obligated to share in that expense. To illustrate this idea, I will say, briefly, that in New York State the bill provides that where the question is the elimination of existing grade crossings the State pays 25 per cent of the cost, the locality, if it be a town or village, incorporated village or city, pays 25 per cent of the cost, and the railway company pays 50 per cent of the cost. In cases where the matter under consideration is the construction of a new highway across an existing railway, or a new railway across an existing highway, the expense is borne wholly by the locality and the railway company or companies, and the State contributes no portion whatever. But the supervision of our board as to the manner in which that crossing shall be made remains with our board absolutely, as in other cases.

I do not wish to be regarded, of course, as opposing this resolution. I shall vote for it; but I simply want to submit to the convention the question whether they regard it as feasible for this committee to prepare a general bill which shall be reasonably adaptable to all the States. I do not think it can be done, but I shall vote for the resolution in the hope that it may accomplish some good work.

The CHAIRMAN. I suppose that a bill could be drafted and be changed in given cases so as to be adaptable to each State.

Mr. WESSELIUS. I do not oppose the resolution, and I do not want to be understood as opposing it, but in our State we have had this question of grade crossings before the commissioner and I think at this

time I may profitably, though briefly, call the attention of gentlemen present to one condition of the law.

I have come to the conclusion that under the common law a State has ample jurisdiction to separate grades at street and railway crossings at the expense of the companies upon such plans as may be adopted by the State; that enactments for the purpose of separating grades that restrict the powers of the State by dividing the expense are limitations of the common-law doctrine. There is no doubt in my mind, after carefully looking over the decisions on the question, that in the absence of any enactment controlling the separation of grades, the commissioner of railroads has power to cause a separation, has the power to compel companies to submit specifications, plans, and profiles of the proposed separation, and to compel companies to pay damages or procure abutting property and do all the work at its own expense.

I think in calling the attention of the convention to this subject the committee may be aided somewhat in the matter of separating grades.

Mr. KAYLER. In the State of Ohio we have a law providing for the elimination of these crossings, and that a railway shall pay 65 per cent of the cost and the community or town or State 35 per cent; but it is left to the option of the community and the railway, and they do not press these matters until they want to. What we want is that somebody shall have authority to bring it to a focus, so that we can eliminate them where we know they are dangerous. We have 10,000 grade crossings in the State of Ohio, but 600 are protected, and it is a very serious question with us.

Mr. WESSELIUS. Just one word additional. The power of a State over a railroad corporation is either in the commissioner of railroads or it rests in some other department of the State. Now, if the power is not delegated to a railroad commission, as I understand it, where the common law is in effect, the power is in a court of chancery; and in all States where they have no express powers to separate grades the State has not thereby lost its power, but it is vested in a court of chancery or perhaps in some other court where there is a code of practice. I do not believe that it is in any case suspended.

Mr. COLE. The power of States to do certain things, as suggested by the gentleman who has just taken his seat, is largely controlled by the need of money with which to compel the elimination of grade crossings; it costs money. If a community has not available funds it is rather difficult to saddle the expense upon them. If a State has not a specific appropriation applicable to grade crossings, the mere existence of the power to require grade crossings to be eliminated would not amount to much. You must have the sinews of war, the wherewithal to do it, and the passage of laws by a State conferring the specific power upon the commissioners, to be effective, must be accompanied with a measure for the raising of funds with which to do it. I think that possibly meets the question which has just been raised by Mr. Wesselius, and the

question raised by Mr. Kayler as to the power to compel the improvement of grade crossings.

I will state for the information of the convention that in New York the power is quite perfect. It is obtained and conferred upon us in this way: Where a dangerous grade crossing exists, application to abolish that grade crossing, to eliminate it, and to provide an under or over crossing rests with the railroad company, with the highway commissioners, with the city, village, or town officials, with citizens of the city, town, or village upon their individual application as citizens; and where none of these parties seem to be moved to do a good work and where danger exists, the railroad commission on its own motion may bring the proceeding. So that between all these sources of initiation there is no likelihood of any failure anywhere, assuming that the railroad commission is diligent.

The CHAIRMAN. If there is no objection on the part of the committee on uniform classification, I will now call the committee on legislation.

Mr. MILLS. There is no objection.

Mr. MOSELEY. I regret exceedingly that the members associated with me on this committee, with the exception of one, are not present, and it has therefore been impossible to obtain their views on the paper; but I will read it and submit it to the judgment of the convention.

LEGISLATION.

Since the last National Convention of Railroad Commissioners two very important decisions by the Supreme Court of the United States, relative to the act to regulate commerce, have been rendered. They are known as the "Freight Bureau Case," and the "Nebraska Maximum Freight Rate Case," and a brief discussion of them will show a pressing necessity for further legislation.

The Freight Bureau decision not only denies to the Interstate Commerce Commission the power to order and enforce designated rates for the future, however clearly such rates may have been shown to be reasonable and just, but it also has a tendency to restrict the authority of those State railroad commissions which operate under laws similar to the act to regulate commerce. In this decision it is declared that the power to fix a rate for the future is a legislative or administrative and not a judicial act; that when such power is delegated by the legislature to a commission the terms should be so clear and distinct that there can be no possibility of misunderstanding as to the intention. It therefore follows that as the courts can not be invested with legislative functions they can have no power whatever over future rates established by legislature or commission, except when proven to be noncompensatory, to prevent their enforcement.

Nothing in either of these decisions precludes the Interstate Commerce Commission from finding that, as to the past, a rate has been unreasonably high and to what extent, the extent of the excess charged may be the basis of a claim for reparation against the carrier. For illustration: If at a certain date the commission finds that a rate is too high by 10 cents per 100 pounds, and subsequently a shipper shows that such exorbitant rate was in effect when his merchandise was shipped and that the rate which had been found exorbitant continued in force between the period of such finding by the commission and the filing of the complaint, then it is suggested the commission may award reparation, viz, 10 cents per 100 pounds on all such shipments made during the period mentioned. This, however, does not give the relief desired nor that intended to be given by the law. It may be presumed that

each shipper has charged the increased cost of carriage to his customer or has deducted it from the sum paid to the producer. The middleman, therefore, is not affected in any appreciable degree; the consumer, who pays only a slight increase on what he purchases, never complains; and the producer, who is often the main loser in the game, can but smile at the smallness of the relief after a vast deal of litigation and annoyance.

How much more beneficial would it be to have the statute amended so as to vest the commission with power to change the rates made by carriers in specific cases, after full hearing, by an order which would be elastic, and which could be changed from time to time as the variation of circumstances required or the changed conditions demanded, the action of the commission to be subjected to that review which appeal to the court would give. Of what value is the declaration of the basic principle of the act to regulate commerce that all rates "shall be reasonable and just" stripped and naked as it is? Though a perfectly sound principle, and for a long time supposed to be the very soul of the act, it is found to be ineffective, without power or process to give it life. It is dormant, and, more than that, its declaration is deceptive and leads to disappointment.

The present situation can not be too emphatically stated in order that the public may fully understand the imperfections and impotency of the present law. It is succinctly described by the Interstate Commerce Commission in its Eleventh Annual Report (p. 14), as follows:

"As now construed by the Supreme Court, the carrier is given the right to establish and change its rates independent of the judgment of the commission and independent of the action and judgment of any court or other tribunal; that the right to establish, demand, and receive unreasonable and unjust charges is not prohibited, and that in respect to the charges which may be demanded and received for any transportation service the carriers are made judges in their own case as to what is reasonable and just."

The only constitutional restriction upon the fixing of rates by governmental authority would seem to be that pointed out by the Supreme Court in the Nebraska freight-rate case, to the effect that a carrier can not be deprived of its property without fair compensation. This is generally understood to mean that a carrier is entitled to a fair return upon its property and investment. But the establishment of any certain method that would generally apply for ascertaining the amount of the return which the carrier should be entitled to receive presents a most difficult problem, and one thought by many to be absolutely impossible to solve.

The utterances of the Supreme Court upon this subject have been vague and difficult of comprehension. In those cases where it has been explicit the facts of the particular cases govern and prevent their general application. But in the Covington Turnpike Case, decided in December, 1896, the court laid down this doctrine: "It can not be said that a corporation is entitled, as a right and without reference to the interests of the public, to realize a given per cent upon its capital stock. When the question arises whether the legislature has exceeded its constitutional power in presenting rates to be charged by a corporation controlling a public highway, stockholders are not the only persons whose rights or interests are to be considered. The rights of the public are not to be ignored. * * * The public can not properly be subjected to unreasonable rates in order simply that stockholders may earn dividends." These words are indeed gratifying as showing that other parties than the owners have substantial interests involved in the making of a rate that is compensatory.

But until the Supreme Court has determined the basis and method far more distinctly than is indicated in the Nebraska Maximum Freight Rate Case it seems impossible for anyone to arrive at a conclusion just to the public as well as to the carriers. It should be understood that the court did not go so far in this case as is generally supposed, as it conceded to the railroad commission, when it appeared from the earnings of a road that the rates charged were bringing in undue revenue,

the privilege of applying to the circuit court for the discharge of its injunction restraining the commission from putting lower rates into effect. Upon the question of the proper basis of calculation as to the reasonableness of rates to be charged the Supreme Court in this case said:

"We hold, however, that the basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property being used by it for the convenience of the public, and in order to ascertain that value the original cost of construction, the amount expended in permanent improvements, the amount and market value of its bonus and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statute, and the sum required to meet operating expenses are all matters for consideration and are to be given such weight as may be just and right in each case. We do not say that there may not be other matters to be regarded in estimating the value of the property. What the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience. On the other hand, what the public is entitled to demand is that no more be exacted from it for the use of a public highway than the services rendered by it are reasonably worth."

How in any particular case are these facts to be arrived at? How is a just valuation of a carrier's property to be determined? How are the thousand and one facts which appear to be necessary to fix the figure of allowable remuneration to be ascertained? It is not believed, under existing circumstances, that it is possible to determine fairly these questions in a way that protects the rights of the public. The subject is worthy of the most serious consideration of the legislature. Should not steps be taken at once to ascertain the cost of construction, equipment, and operation, the value of the property of carriers, and other like facts found by courts to be essential in determining the basis for making a reasonable rate? The task is herculean, but what other method is there of extricating the body politic from the confusion into which it has been placed by this decision? It seems to be the only course now left to legislatures and commissions.

To those who contend that any public regulation of railroads is an unwarranted assumption of power, we would direct this question: What protection has the public otherwise? It may not be their province to answer such a question. Probably many would adopt the answer of the president of a prominent railroad who recently stated his position to be "that there ought to be no authority anywhere which has power to inquire whether a rate on the Louisville and Nashville Railroad is reasonable or unreasonable," and who further said: "Better leave the matter to the parties interested—the one who pays the freight and the carrier;" which means that the carrier should be the final judge in its own interest.

In contradistinction to what is quoted above from those who oppose any regulation of the railways of our country, we would cite to you a recent article in favor of pooling by Mr. F. J. Firth, in a prominent railway journal, in which he says: "There can be no doubt that national legislation is necessary to regulate the important relations between the railroad and the public. It should be legislation founded upon the broadest possible nonpartisan statesmanship, and it should give just consideration to every interest affected. It should avoid complexity and be expressed in language that every citizen can understand. Its purpose should be to insure just and reasonable rates for the carrying service, with no unfair discrimination between persons and places. It should protect the carrier in the possession and management of his property and the public in the use of the artificial highways on reasonable terms."

In the same view is written a late article in a magazine by Mr. Chauncey M. Depew, wherein that prominent railway official states: "The device of the railway commission has done more than anything else to allay popular prejudice against the railroads. * * * Railway agitation has fortunately given to the country a national railway commission. It is right and proper that the vast interstate commerce of

these United States should be supervised by the Government of the United States. When Congress has grasped the situation and taken up the question in a broad and liberal spirit, the powers of this commission will be greatly enlarged; in other words, Congress will express its confidence in 'government by the people,' for the railroad commission is the 'people,' precisely as they are. A few amendments to the interstate-commerce law, a few larger discretions given to the Interstate Commerce Commission, and the railway problem of the United States would be solved so far as the public and the railways are concerned."

These statements, it is true, have been made in connection with the advocacy of the legalization of pooling by competing carriers upon the contention that if the regulation of the railways is given to a tribunal with power to control the rates in behalf of the public, it is nothing but right that such tribunal be given the power to protect the railways from illegitimate attacks upon one another; that the regulation contemplated by railway commission acts is inconsistent and incompatible with nonrestriction of competition; that to allow railways to make whatever minimum rates they please and to wage disastrous and interminable rate wars upon one another is not regulation but license; it is claimed that the larger powers to be granted to the commission, spoken of by Mr. Depew, should be accompanied with the privilege to railways to pool their traffic or to distribute it by agreement under proper supervision, and that such an amendment would result in just and reasonable rates, encourage honest dealing, abolish rate wars, improve the public service, decrease delay in the payment of claims, maintain stable rates, and produce more satisfactory returns to the shareholder.

Whatever shall be determined upon by Congress as to this policy, such public regulation as is intended by it should be clearly and well defined, and the means and process for its prompt and effective enforcement should be provided.

All legislation looking to the protection of the public from exorbitant rates should well guard the right and just interests of carriers and investors, and be such in all respects as to bear the scrutiny of the courts as well as to commend them to all just men.

It seems to us, as the matter now stands, that what is a compensatory rate is indefinite, as the power still remains in the railway manager so to manipulate the books and accounts containing the figures upon which any estimate can be based, that almost any rate he calls for may be exacted. Courts, in effect, largely take the ground that there can be no fixed rule established by which the reasonableness of a rate can be reached. The question must be left to the individual opinion, not to say bias, of any of the judges before whom the matter may be brought, out of which as many distinct ideas as to whether a rate is reasonable or not may grow, as there are different members of the court. It must be borne in mind that the matter hinges almost entirely upon a question of fact left to the Federal judges to determine, for it may be fairly stated that in almost every instance such cases will be tried by the Federal courts, and not by the judiciary of the States. A State grants a charter to a railroad company and gives it life and standing before the law, but the State judges generally have no voice in the determination of the question of how far the corporation owing its existence to the State may burden and oppress its people in the matter of the transportation of passengers and property. In fact, the traffic manager has been largely a dictator in the past, and under the existing situation he will continue to be so, except as he is controlled by competition for the business and the influence of public opinion. And this is where persons who are restive under public control of railways believe this power should be vested, and, as a railroad president has said, "if the public does not like it, why, they can do as they did before there were railroads, walk."

No matter how unfair may be the manager's determination, no power rests in court or commission to grant adequate relief. The infallible traffic manager, solitary and alone, is still to determine whether Social Circle shall buy its buggies in Baltimore or Cincinnati, as he will determine whether the manufacturer in Baltimore or

Cincinnati shall make them. New York and the East are still to continue to supply the Southern markets with certain kinds of goods, not because it is right, but because the traffic manager has determined that to allow Cincinnati, Chicago, and the West to supply these articles to the South would upset the course of trade as he desires it. On all these questions the railway manager is to remain judge, jury, and high executioner. Classification of the determining of the relation which articles in various processes of manufacture are to bear to each other is a question of the greatest commercial interest. This question, too, the potent traffic manager wishes to settle unaided. Any assistance offered by a commission is regarded as an "unwarranted assumption of power."

When the traffic manager adjusts a classification there is no appeal from his ukase; but the decision of the commission must receive the sanction of thirteen or fourteen judges before it is obeyed. A prominent railway official in a recent article says that the railways and the shippers should settle all matters without any outside mediation, and strongly asserts that the commission is grasping after tyrannical powers. This article, misstating the position of the commission, is being circulated broadcast over the land. The writer seems to prefer, in case the railroad and the shipper can not agree, to have the matter tried before some judge who has the railroad's pass in his pocket.

During this year the case against the Joint Traffic Association has reached the Supreme Court, been argued, and awaits decision. That decision will be a most vital one; for, in the language of the counsel for the Government, the only protection which the public has, as the laws now stand, is the free and unlimited competition between carriers, and anything which in any way restrains that is antagonistic to the public interest. If, however, the court should sustain the contention of the railroads in this case, it would be virtually legalizing pooling arrangements and other devices by which competition is destroyed. Then the public surely would be entirely at the mercy of the carriers. Of course, the law enjoins a reasonable rate, but what a broken reed this is. The word has no definiteness and certainty. (See Justice Brewer: *Tozer v. United States*, Fed. Rep., vol. 52, p. 912, etc.) We can find no case where anyone has ever recovered even one cent because of an unreasonable rate. What, indeed, could be more uncertain and unsatisfactory, when there is at present no method of ascertaining what approaches a reasonable rate?

It is the duty of those having these matters in charge to apprise the people of this country by every proper method of the condition in which they are now left in respect to railway rates and practices. This is due to the public because the people have been led to believe that effective legislation, both State and national, has been enacted, which vests in the State and Federal commissions the power to determine and enforce reasonable rates. There is no doubt that they must, in the face of the rapid consolidation and combination going on, do something to protect their interests, or they will, when too late, perhaps, find themselves bound hand and foot.

Now, is there no relief from the existing state of affairs? Are railroads to be left free to charge what they see fit, without any State or Federal control? There seems to be at least one course left, and that is for the Government to take absolute control and supervision of the accounting of railroads, with full power to investigate and inspect the same at any time. By this means there would not be any transaction of railroad companies, of whatever moment or for whatever purpose, that would not be open to the scrutiny and correction of Government inspectors or examiners at any and all times. No books should be allowed to be kept except those which have been accepted and approved by law or regulation, and the same should always be kept open to examination by Government agents. Every detail should be spread upon these records and every transaction should be duly recorded in these books, and such publicity should be given to the entries as would protect the public and the stockholder alike. In this way fictitious values, false statements, and artistic juggling of figures would be eliminated, and with them all the attendant mystification that now surrounds the accounting books of many railway corporations.

Several States of the Union have already taken steps to abolish fictitious capitalization. The statutes of New York provide that no increase of capital stock shall be valid unless approved by a two-thirds vote of the shareholders at a meeting called for that purpose after twenty days' notice to each stockholder, and unless also approved by the board of railroad commissioners. An amendment adds that no stock shall be issued except for money, labor, or property. The State of Massachusetts, in 1894, enacted amendments to its railroad laws which forbid the free issue of stock under any circumstances. Issues of shares are lawful only after approval of the board of railroad commissioners and for the purposes certified to, and must be sold to shareholders at auction at not less than par, or at the market value if more than par. It is the duty of the railroad commission of Texas to furnish to the State authorities a valuation of the railroad property in that State, and the law positively prohibits any railroad from issuing stock above the actual value of the road. It was thought that this law would restrict the construction of railroads within the State of Texas, but the last annual report of the commission of that State asserts that no decrease in the building of railways owing to that statute has happened. About a dozen other States have similar laws on their statute books.

Railroads have no right to grant free passes, give free service, pay exorbitant salaries to officers, water stock, and then claim that the reason why they are unable to earn a sufficient compensation is because the prevailing rates are too low. Upon this point the United States Supreme Court has well said, in the *Wellman Case*:

"Of what do these operating expenses consist? Are they made up partially of extravagant salaries, \$50,000 to \$100,000 to the president, and in like proportion to subordinate officers? Surely, before the courts are called upon to judge an act of the legislature fixing the maximum passenger rates for railroad companies to be unconstitutional, on the ground that its enforcement would prevent the stockholders from receiving any dividends on their investments, or the bondholders any interest on their loans, they should be fully advised as to what is done with the receipts and earnings of the company; for if so advised it might clearly appear that a prudent and honest management would, within the rates prescribed, secure to the bondholders their interest and to the stockholders reasonable dividends."

The American people are just. They do not want to deprive railroads of their property, but they do want to know what that property is and its just value, and they do not want to be deceived in the matter. The sentiment pervades the public to-day that railroad accounts are often manipulated to make false statements. A conspicuous instance of this kind happened not long ago. The examination of the accounts of one of our largest Western railway systems, previous to its reorganization, revealed the fact that the rebates of four years, illegally granted to shippers, aggregated nearly four millions of dollars. A million a year was given to shippers after such practices had been forbidden by law. And this sum was not charged to earnings, as it should have been, but to "improvement account, special," and so reported from year to year, the intent of the management apparently being to float improvement bonds and then claim the right to earn for all time the interest on this dishonest amount.

Is it not high time that State and Federal authority should have power to scrutinize the system of railroad accounting and have the same spread open to the public?

Truly was it said by Hon. George G. Crocker, of Massachusetts, a former member of this committee, in a paper on "Stock and debt watering," read before this body in 1894: "It is evident that when a corporation issues bonds or incurs any form of indebtedness whatever, for which it has not received full equivalent, the public suffers in the same manner in which it suffers when a corporation issued stock for less than its par value. More than this, the issue of bonds or the assumption of any form of indebtedness without full value received is actually worse than the issue of stock for less than its par value, because upon debts interest must be paid, while upon stock dividends need not be paid unless they are earned."

We would like to add to this that it is to the interest of the public that State and interstate railway commissioners should cooperate, so as to have throughout the length and breadth of this land one uniform method of valuation of railway property, in order that the public should not longer suffer the evil of paying a tax upon overvaluation. If the people of the United States are to secure justice in respect to rates of transportation, it is necessary that Congress and the State legislatures should take active interest in the matter and enact such legislation as will at least attempt to protect the public. The Government should open to the scrutiny of the regulating bodies the railway books which show every financial and commercial transaction as well as operation. National banks are under Government supervision, and still, as far as the general public is concerned, they do not bear one iota of the importance to the public that is borne by this question of railway transportation.

In respect of a business so vast as that of public transportation, directly or indirectly affecting every other interest, with all of its opportunities and temptations for ruinous discriminations and unjust rates, with power to affect the fate of individuals and communities, it is intolerable that its regulation should be vague, halting, and ineffectual. The rights and duties of the carriers and shippers should be made clear. Their ascertainment should not be left to the interpretation of general declarations of principle, however well-rounded and beautiful the declaration, and however pure the principle. Clear as may be the general purpose of the statute, experience shows the necessity of requirements, positive, mandatory, and unequivocal in terms. The undisputed and eternal principles of justice, equality, and reasonableness afford no comfort or practical aid to the shipper who finds no lawful process or power of ascertaining what rates are just, equitable, and reasonable, and of limiting carriers to the collection of such. A system of regulation which only affords a vague and theoretical plan of reparation for a wrongful exaction is not worthy of the name. For reasons heretofore stated, such a system must ever be inadequate as a means of justice to those wronged.

For every wrong there should be a remedy. The theory and process of enforcing reparation and restitution is deemed appropriate and adequate in respect of ordinary matters of controversy between litigants. But for the man or the community whose business is daily suffering and dwindling by reason of unjust or discriminating rates against such and to the undue advantage of another, such a remedy, requiring endless multiplicity of expensive suits to recover varying amounts respecting matters of daily and continuing occurrence, is in most cases wholly unsuited and worthless. There can be no adequate redress of these wrongs after they are done; consequently the necessity of preventing the wrong. This can only be done by enforcing the right of shippers to ship at rates "reasonable and just," and therefore *lawful*, and without the power of exaction on the part of carriers of any other rates which are by law now denounced as *unlawful*, though, strange as it may seem, we have seen, as the law is construed by the courts, they now have the legal right and power to collect.

As a conclusion to the foregoing, we recommend that further legislation be sought along the following lines: (1) A more specific delegation of the power to ascertain, order, and enforce rates for the future when challenged, safeguarded, of course, by constitutional protections; (2) an enactment requiring the carriers to keep open to public officers certain prescribed books and records, containing full information as to the cost and value of their properties and as to every transaction, operative and financial, which shall be subject to the inspection or supervision of such officers of the law; and (3) more perfect machinery should be provided to put into effect and execute the criminal provisions of statutes against practices on the part of carriers which the people through their legislatures, State and national, have condemned.

Your committee also recommends indorsement of amendments to the act to regulate commerce proposed by the Interstate Commerce Commission in its Annual Report for 1897, which are intended to authorize that commission, after due notice and full hearing and investigation in particular cases, to fix maximum rates for

future observance by defendant carriers; to fix a minimum rate in such cases when that may be necessary to prevent discrimination under the undue preference clause of the statute; to determine the divisions between carriers of a joint rate and the terms and conditions under which business shall be interchanged when that is necessary to the execution of the provisions of the act; to make changes in classification of freights and amend the rules and regulations under which traffic moves so as to bring them into conformity with the requirements of the statute, and other amendments so proposed which are designed to enable that commission to require observance of the regulating provisions of that law. Most of these amendments are embraced in the bill now pending in the United States Senate as Senate bill No. 3354, and known as the "Cullom bill."

It is further recommended that the indorsement by the last convention of the measure intended to prohibit ticket scalping, and which is still pending in Congress, be renewed.

These recommendations, if adopted, should be transmitted to each House of Congress, accompanied by a copy of the foregoing report as showing the basis of such action by the convention.

The CHAIRMAN. Gentlemen, what will we do with the report?

Mr. DILLARD. I move that the report be received, approved, and adopted, and that the recommendations made be transmitted in a report to the two Houses of Congress.

Mr. ARCHER. I move that the report be received, but that consideration of the motion be deferred until the next regular meeting of this convention.

The CHAIRMAN. Does the gentleman from Ohio offer that as an amendment?

Mr. ARCHER. It is a motion to defer the consideration of the motion to adopt.

The CHAIRMAN. The gentleman offers a motion to defer the consideration of the motion to adopt; that is, to defer consideration of the motion made by the gentleman from Kansas, the postponement of consideration. That is the question before the house.

Mr. DILLARD. I rise to the point that the motion is out of order. If it is desired to postpone consideration of this report, a motion to that effect should be made.

Mr. ARCHER. I do not think it is necessary to discuss that. A motion to postpone any matter before any parliamentary body is always in order. While I have the floor I might say that my reasons for moving—

The CHAIRMAN. Probably the chair would be out of order in hearing the gentleman before ruling on the point of order of the gentleman from Kansas. The gentleman from Kansas made a motion to adopt and transmit to Congress the recommendations made by the committee on legislation. Technically speaking, probably the gentleman from Ohio arose too soon, but to eliminate technicalities, we will consider the motion of the gentleman from Kansas before the house. The gentleman from Ohio moves to postpone consideration of the motion of the gentleman from Kansas, which is according to parliamentary law, and shall be entertained by the chair. If there are any remarks on the motion to postpone we will hear them.

Mr. ARCHER. My object in making the motion is that the chairman of the committee made the statement that this report was really an individual paper, and I feel like treating that paper like a communication received from any member of this convention—that is, to be submitted to the scrutiny of the entire membership of this organization before we take definite action thereon.

Mr. WESSELIUS. May I ask a question?

The CHAIRMAN. Certainly.

Mr. WESSELIUS. If the substitute or the amendment carries will the paper still be printed in the proceedings?

The CHAIRMAN. I think it would.

Mr. WESSELIUS. Under those conditions I would favor the amendment offered.

The CHAIRMAN. I think under the rule adopted here that all papers, and in fact everything that is said in this convention, is printed unless there is a motion to eliminate from the record. I would so hold. Any further remarks on the question?

Mr. DILLARD. This report, as I understand it, is from the chairman of the committee on legislation, and if the other members of that committee have been derelict in their duty in not attending the sessions of this convention and having the opportunity to concur or nonconcur in this report, it is certainly not the fault of the chairman. I, for one, am satisfied with that report, and I think this convention ought to approve it and adopt the recommendations therein made. If there be any questions of time for the members of this convention to study that report and see what is in it, it may be well to let it go over for a reasonable time; but I see no reason for putting it over for a year and practically saying that we do not indorse those recommendations and suggestions. For one, I hope the report will be now approved and the recommendations made adopted.

Mr. KAYLER. Mr. Chairman, I think it ought to go over for this reason. Take States like Ohio that have nothing whatever to do with the making of rates. Of course, we have not given that question the study that members from other States that do make rates have given it. It is far-reaching. There is a great deal embodied in that, and we feel that we would like to be competent to vote on it—to have the chance to consider it, at least, and it will take some time to consider matters of such importance to the whole country.

Mr. WILBORN. Mr. Chairman, it strikes me that the motion of the gentleman from Kansas should prevail. I suppose there is not a member of this convention who has not followed the decisions of the Supreme Court of the United States from time to time, and I suppose we have all read through the papers and have had circulars sent to us, addresses and prepared papers, by people opposed to the Interstate Commerce Commission. Indeed, I have had them sent to me time and again, and the red flag is raised in these United States. The Interstate Commerce

Commission is, I understand, proclaimed by some interests as dangerous to the interests of the whole Union. I regard it, sir, as the bulwark of the liberties of the shipping people of this country. I fear that time has already been wasted so that the relief that the people should have will be many years delayed. Congressmen have their tables flooded with petitions in favor of increasing the powers of the commission. We know that they ask for nothing but what is reasonable. We know that the individual, without some go-between, has no show with the great corporations that are continually combining, as we were warned yesterday by President Ingalls. We feel that the time has now come when action should be taken, and not postponed. Feeling so, therefore, I hope that the motion of the gentleman from Kansas will prevail, and that our Representatives in Congress may know and feel that the time has come when the hands of the commission should be held up and assisted and strengthened, and new life given to a body whose life's blood has almost been sapped by decisions of the courts.

Mr. HENNESEY. I am in favor of the report. I think it is the best paper read here and in line with what the people want, if there is any use in submitting anything further to Congress; but it looks almost useless to do so, in view of the decisions of the Supreme Court, for whatever might be passed by Congress will be overruled again. But if there is any good in it, then I am in favor of the adoption of the report.

Mr. WESSELIUS. While I may agree with some of the recommendations, I think there are many and very far-reaching propositions in this paper. There are some which I could agree to and some which I can not agree to, and perhaps the members of other commissions are in the same shape. As I understand the motion of the gentleman from Kansas, it is that we indorse all the views and all the recommendations and all the conclusions embodied in that paper. If that be so, then I want to be recorded as voting "No," because no man ought to vote for the recommendations in any paper without carefully analyzing them himself to see whether he fully agrees with them or not. I do not believe in the wholesale recommendation or ratification of any paper to Congress which we have not individually examined, because if there are recommendations in that report which will be useful to the railroad company or useful to some Populist in Congress it will be advocated upon the floor of the House and in the Senate that we, as a body, after due and careful consideration of the paper, have adopted it, and that each conclusion, each line of reasoning, has been indorsed by the convention; and documents of that kind will be sent broadcast across the country, and our standing and position on this subject will be used in favor of the proposition in all its details.

I object to it, and I hope the convention will not be so foolish as to indorse it without careful examination of the whole paper.

Mr. MOSELEY. As the President has named the hour of a quarter to one as the time for receiving the members of the convention, and

as these recommendations are so entirely misunderstood, and I want an opportunity of explaining them, I move that further consideration of the subject be postponed until this afternoon. There is an entire misunderstanding as to the matter. Every recommendation here made has already been passed upon by this convention and the recommendations sent to Congress. Of course it will be understood that the views set forth in the report are entirely my own. I speak only for myself in that report.

Mr. ARCHER. That is the reason why I made the motion to defer its consideration until the next regular meeting of the convention, upon the understanding that, this paper being presented by the secretary of the Interstate Commerce Commission, it may go to the proper committee and be considered by it.

Mr. MOSELEY. It was not submitted by the secretary of the Interstate Commerce Commission. It was submitted by the chairman of a committee of this body and not the secretary of the Interstate Commerce Commission.

Mr. ARCHER. But it contains the signature of no one except the chairman of the committee. I will consent that the consideration of this matter be deferred until this afternoon.

The CHAIRMAN. That is entirely in the hands of the convention. As the matter now stands we will have to take a vote upon that question.

Mr. ARCHER. I ask that a yea-and-nay vote be taken.

Mr. DILLARD. I desire simply to say that I trust our brother from Michigan may not inject any politics into this discussion. I trust this is not a political convention, either to air our views on Republicanism or Populism or Democracy.

The CHAIRMAN. The chair will say absolutely it is not.

Mr. DILLARD. I trust that it is not. If my motion was broad enough to include all the reasoning of this report I desire to modify it. I would like to have the recommendations in the concluding part of the report reread. As I understood it, the recommendations embodied practically what the Interstate Commerce Commission recommended in their report to Congress.

The CHAIRMAN. I will recognize the motion to consider the postponement until after dinner.

The motion was agreed to.

Mr. KINGSLEY. I move that we adjourn until half past 2 this afternoon.

The motion was agreed to, and the convention took a recess from 12.40 to 2.30 p. m.

Adjourned, 12.40 p. m.

The convention reassembled at 2.30 p. m.

Mr. TOMPKINS. The State of Montana has no railroad commission, but certain State officers perform some duties of a railroad commission, and we have with us Mr. Collins, the State treasurer of Montana, who

has been appointed by the governor to attend this meeting. I move that he be admitted to membership and be given a vote in this convention.

Mr. FLODY. With all respect to the gentlemen, I do not believe that motion is necessary. I believe that any State officer, whose duty it is to take up matters pertaining to rates or look after, in a legal way, anything pertaining to the railroad department of the State he represents, is entitled to a seat in this convention.

The CHAIRMAN. To avoid discussion upon this question, the chair will ask if there is any objection to the gentleman being a member of the convention; if not—and I do not hear any objection—he will be considered a member.

Mr. FLODY. I do not want to be persistent, but I want to make my point clear, and I would like to have a decision of the chairman. I believe he is entitled to a seat without the vote of the convention.

The CHAIRMAN. If we have the unanimous consent of the convention, that disposes of it. I believe you are right. But that is the quickest way out of it.

Mr. KAYLER. The last convention so declared.

The CHAIRMAN. I believe that the chair would be correct in asking for unanimous consent, because every body is a judge of its own members, and even if the rule is as stated, if there were objections, the question would have to be heard.

The CHAIRMAN. The gentleman from Kansas has the floor.

Mr. DILLARD. In order that we may know just what we are attempting to do, I ask the chairman of the committee on legislation to again read the recommendations appended to his report.

Mr. Moseley read the recommendations.

Mr. DILLARD. Now, Mr. Chairman, I move that the report of the chairman of the committee on legislation be received, and that the recommendations therein contained be adopted and approved by this convention.

The CHAIRMAN. The question before the house is the question to adopt and recommend, and then there is a question before the house to postpone. The only manner in which you can get this question before the house now would be to offer it as a substitute.

Mr. DILLARD. I withdraw the motion made this morning, and the motion being withdrawn I suppose it carries with it the motion to postpone, and I now make this motion.

The CHAIRMAN. Then you withdraw the motion?

Mr. DILLARD. I do.

The CHAIRMAN. To obviate any parliamentary discussion we will admit that it is right to withdraw that question.

Mr. ARCHER. I would ask if that withdraws the motion to postpone the further consideration of this report?

The CHAIRMAN. To avoid discussion and consumption of time we

will admit that it does withdraw it and permit you to renew your motion.

Mr. ARCHER. I do, then, renew my motion that further consideration of this motion to adopt the recommendation be deferred until the next regular convention.

The CHAIRMAN. The question before the house is upon the motion of the gentleman from Ohio to postpone consideration.

Mr. ARCHER. I ask that the vote be taken by yeas and nays.

Mr. MOSELEY. Before a vote upon a motion of the character now before us is taken, I desire to say a few words. To put off consideration of these matters until next year would at once be seized upon by certain interests as an indication that this convention had put its seal of disapprobation upon the recommendations of the Interstate Commerce Commission to Congress and the recommendations made here.

The first recommendation is, more specific delegation of power to ascertain, order, and enforce rates for the future when challenged, safeguarded, of course, by provided constitutional protection.

What objection is there to that? For ten years the Interstate Commerce Commission has exercised that power. For more than seven years they exercised it without any serious contention on the part of any carrier that the commission was not so authorized. Do you want to have any change made in that? Do you want to have the law stand as it was supposed to be? Do you want to have the law mean anything as far as the control of interstate freight rates is concerned? I might also say that this also applies to those State railway commissions which may be exercising the power to change rates.

The next recommendation is, an enactment requiring the carriers to keep certain prescribed books and records containing full information as to the cost and value of their property and as to every transaction, operative and financial, which shall be subject to the inspection or supervision of designated public officers.

The interstate-commerce law and the laws of many of our States, a large number of them, require financial returns to be made under oath. If these statements are truthfully made, what possible objection can there be to agents of the Government examining them and ascertaining from original entries whether they are correct or not? This authority is of vital importance when a carrier can go before the court and show by any statement it sees fit to make that a rate can not be reduced because it does not earn dividends, and the regulating body has no power to determine whether that statement is correct or not.

The third recommendation is, that more perfect machinery should be provided to execute the criminal provisions in the regulating statutes.

One man is going to ruin by reason of the fact that the railroad gives preferences to his neighbor, and neither the national nor the State commission has effective power to redress the wrong. The provisions of the law are nullified because the machinery is not provided to pun-

ish it. We heard a very strong argument by Mr. Ingalls yesterday against the imprisonment penalty. Whatever opinions we may hold upon that point, there should be, when a criminal violation is alleged, some means of proving it to the satisfaction of the jury or the court. Such means are not now provided. If you want to forbid and punish these acts, which the public sense condemns, you must make the law enforceable; otherwise attempts to convict are farcical, and the scheme of regulation is brought into contempt.

Mr. Ingalls told you yesterday that there is hardly a railroad in the United States which is not willfully violating this law. He suggests a cure, but the condition is that they are breaking the law. Why? Because you have no real power to convict and punish disregard of provisions, which say no man shall get an undue advantage over another.

Now, in regard to the matter of inspecting the books of railway companies, if I am not mistaken, we adopted that last year. The recommendations as to that are general. They are not in the form that would commit this convention to any particular method. That is left to the discretion of Congress.

We now come to the recommendations of the Interstate Commerce Commission. As I know all members here have been supplied with copies of the report of the commission, and as they have doubtless read it, it seems unnecessary to go into details in regard to those recommendations. The Interstate Commerce Commission is asking for no powers beyond those which every man here who has paid attention to the subject believed it had up to a few months ago. Why should the law require that the rate shall be reasonable and just if that provision can not be enforced? As the law stands to-day, that requirement means nothing. As I said before, no one can point out a case at common law where a man ever recovered one dollar because he was charged an unreasonable rate. Why should that provision for reasonable and just rates be retained if we do not provide some machinery to make it mean something?

Now, Mr. Chairman, I come to the last recommendation——

Mr. KINGSLEY. I would like to ask if the recommendations of the Interstate Commerce Commission and the bill which was prepared and embraced in the last report of the Interstate Commerce Commission does not contain substantially all that the Interstate Commerce Commission at that time regarded as necessary to give it effective power over the railroad situation?

Mr. MOSELEY. I am very glad you asked me the question. I am not a member of the Interstate Commerce Commission. Some of the Commissioners are present, but my remarks are simply those of a citizen intensely interested in this question. I have been studying it for eleven years, and I would not be true to myself nor to my position if I did not inform this convention, in my inefficient way, of the true situation.

I should be glad to have some member of the commission also speak upon the subject.

Mr. KINGSLEY. Just one other question. If that be true, then, is it necessary to embrace in your report any recommendation other than that the bill recommended by the Interstate Commerce Commission be passed?

Mr. MOSELEY. It all amounts to the same thing. I consider that the question as to how far the books of a corporation performing a public service shall be open to inspection is not really so important at this time. I want to mention one other thing, and that is ticket scalping. At its last annual meeting this convention, without a dissenting voice, disapproved the practice and recommended Congress to pass laws prohibiting the evil. I supposed there would be no objection in that particular, and therefore I put it in.

We ought to give the carriers all reasonable protection also, but if that recommendation will operate to embarrass the action of the convention as to those which call for additional regulation, I shall not press it at this time.

That there may be no misunderstanding I suggest that the question on this report be that the recommendations made to Congress by the Interstate Commerce Commission at the end of its eleventh annual report be indorsed and transmitted to Congress with the approval of this body.

Mr. ARCHER. I desire to state my reason for making this motion. As I understand it, we are not considering the recommendations of the committee on legislation. It is in fact a report of the chairman of that committee. My reason for moving to defer consideration of the matter was that there are other members of that committee. They may have reasons for refusing to sign that report. They may desire an opportunity to be heard. I do not wish to take your time by undertaking to discuss the merits of these recommendations, or the extent to which this convention can make recommendations on the question of who shall legally make rates, as to inquisitorial powers, and as to ticket scalping. Those are recommendations that ought to receive at least a majority of the legislative committee, and for that reason it seems to me if we, desire to speak to Congress through this representative organization, composed of the members of the Interstate Commerce Commission and the railroad commissioners from the different States, that no report ought to be adopted unless it has received the indorsement of a majority of the committee.

Mr. KINGSLEY. I do not desire nor do I intend to make a speech upon the merits of this question. I will simply state that so far as I am individually concerned I am prepared to vote at this time upon a portion of the recommendations of the chairman of the legislative committee. I would not be prepared to vote upon that report, or upon the recommendations as a whole at this time, and if the question is to be

presented here in the shape in which it now is, I would feel that it would be my duty to vote in favor of the motion of the gentleman from Ohio. If I could be permitted to vote on one branch of that report at this time in some form, I would be willing to do that. I would be willing, and I think every gentleman present who has given consideration to the matter would be willing, to indorse and recommend to the Senate and House of Representatives of the United States substantially the bill which is recommended by the Interstate Commerce Commission and embraced in its report.

Now, I do not think there would be any objection to that, at least I am satisfied there would not be in the section of country in which I live. If that proposition can be separated from the balance of the report and voted on separately I am ready to vote on it at this time, otherwise I shall vote for the postponement until next year.

The CHAIRMAN. In reply to the question of the gentleman as to whether the propositions in the report can be voted on separately, the chair will say that if the question to postpone were voted down, then you could call for a division of the question and vote on each proposition separately. The question before the house is the question to postpone.

Mr. WESSELIUS. In order to save time and simplify the matter and secure all that the committee wants, I wish to suggest that the commissioners from the different States can indorse any portion of that report if the motion of the gentleman from Ohio carries. The report will be printed in the proceedings and we can take it up and study it. If the recommendations in the report are so important, and if there is any doubt about their passing Congress, and if our action will aid in their passage by Congress, why can not we indorse them by private letter after giving them our careful attention. The secretary of the Interstate Commerce Commission is in constant communication with the commissioners of the different States, and it seems to me it would be easiest, and perhaps best, that this indorsement should come by way of written communication and by way of personal opinion on the question.

I for one am not prepared to vote on any proposition contained in that report without a careful study of the question. There is grave doubt in the minds of the people, of the shippers and business men, as to what is the proper solution of the transportation problem. There is grave doubt. The commissioners at this convention are supposed to have a peculiar knowledge, a better knowledge, a detailed and technical knowledge of that question. I should hate to see an indorsement go out on that presumption unless the commissioners knew what they were adopting after a careful study of the matter. As I said this morning, I am in favor of the motion of the gentleman from Ohio to postpone the matter until the meeting of the next convention.

Mr. KINGSLEY. I now move as a substitute for the motion pending

that that portion of the report which recommends the passage by Congress of the bill prepared and recommended by the Interstate Commerce Commission be indorsed by this convention, and that the balance of the report be postponed until the next annual convention of the commissioners.

The CHAIRMAN. The gentleman from Minnesota offers a substitute for the question now pending. You have heard it. I will repeat it. It is, that this body indorse and recommend to both Houses of Congress the passage of the bill recommended by the commission in its last annual report, and that further consideration of the balance of the report of the committee be postponed until the next annual convention.

Commissioner CLEMENTS. I have not understood that the substitute motion was intended to confine the recommendation of this convention to the particular bill designated.

Mr. KINGSLEY. That is the Cullom bill.

Commissioner CLEMENTS. That bill does not contain all the recommendations made by the Interstate Commerce Commission.

The CHAIRMAN. He did not say the Cullom bill, and the chair strikes that out and leaves it that the recommendations of the commission be indorsed.

Mr. KINGSLEY. I beg pardon. I will explain what I intended. I intended to include the recommendations of the Interstate Commerce Commission. I supposed that the Cullom bill embraced those recommendations. If it does not, I desire that my motion be understood to include the indorsement of the recommendations of the Interstate Commerce Commission as contained in their last report.

Commissioner CLEMENTS. That is what I understood the gentleman to mean.

Mr. KAYLER. Did I understand Mr. Moseley to say that the Cullom bill was really indorsed by this convention at St. Louis, that recommendations were made at the convention at St. Louis to indorse about the sum and substance of the Cullom bill?

Mr. MOSELEY. In answer to the gentleman from Ohio, I should have stated, and supposed I had, that the recommendation in regard to this matter of inspection of books of railway corporations was passed at our former meeting, and the recommendation in regard to scalping was unanimously passed. Of course the recommendations of the Interstate Commerce Commission, which are contained in their eleventh annual report, could not have been dealt with at that time, because they were made months afterwards; but they are virtually the same. They are substantially the same things that this convention has indorsed time and time and again. It is not a new subject.

Mr. KAYLER. It would not be any good for this convention to rein-dorse what it has indorsed time and time and again.

Mr. MOSELEY. If we do not indorse them, it will be seized upon by certain interests and said that the convention does not approve of

those recommendations and that commissions generally ought to be wiped out.

The CHAIRMAN. I suppose that all the Interstate Commerce Commission desires is indorsement of their action by this body. The question before the convention is the substitute.

Mr. KNAPP. If I understand correctly the substitute offered by the gentleman from Minnesota, it meets my personal approval. But possibly the convention is a little confused by not understanding the precise situation. Those who have made anything like a careful study of the later reports of the Interstate Commerce Commission will have discovered that the last annual report followed certain decisions of the Supreme Court, and while its recommendations correspond in a general way with those previously made, it nevertheless puts some of them in different form from those previously employed, and they to a certain extent amount to new propositions. It is well, also, to bear in mind that the last annual report not only contains certain specific proposed sections to amend existing sections of the present law, but also some further general recommendations, which are not made in the specific form of a proposed bill. So much of those recommendations in the last annual report as appear in the form of a proposed measure are substantially incorporated in what is known as the Cullom bill, now pending before the Senate; but the other recommendations which appear in that report are not, so far as I am aware, incorporated in any bill, either pending or proposed at the present time. Therefore, as I said at the outset, if the substitute, which, as I understand it, is intended to secure from this convention an approval of the recommendations made by the Interstate Commerce Commission in its last annual report to Congress be adopted, that will present a question which I am prepared to indorse and favor.

The CHAIRMAN. The question is upon the substitute offered by the gentleman from Minnesota.

Mr. DILLARD. Which substitute I accept.

The substitute was adopted.

The CHAIRMAN. The next question before the convention is consideration of the resolution favoring arbitration.

Mr. COLE. May I have the privilege of the floor for a minute?

The CHAIRMAN. Yes, sir.

Mr. COLE. As chairman of the committee on organization, I give notice that the committee will be ready to report at a quarter to four o'clock.

The CHAIRMAN. The special order is the arbitration bill.

THE ARBITRATION BILL.

Mr. FLORY. I offered a resolution here yesterday indorsing a bill now pending in the Senate called the arbitration bill. I have learned, since offering the resolution, that a proposition is now on foot to amend the

bill in the Senate in a manner that will make it satisfactory to all parties concerned, and I now ask you to refer the bill to the committee on legislation, for that reason.

Mr. BROWN, of Pennsylvania. I move that the arbitration bill read here yesterday be referred to the committee on legislation to report at the next convention.

Mr. MOSELEY. In regard to arbitration between railroads and their employees, the House bill, or substantially the same bill, has passed the House of Representatives three times without division, the last time only a few days ago. The Committee on Rules and the Speaker have lent their aid to the passage of this bill. It was championed in the House by General Grosvenor, of Ohio. The bill is now in the Senate. It has received the unanimous report of the committee of the House. By unanimous consent it has been twice made the special order, and to-day it was to come up at 2 o'clock.

There have been suggestions in regard to this bill in the nature of amendments, all intended to perfect the bill. None of those amendments—some suggested by gentlemen who represent one interest, some by those who represent another interest, and some who have no interest at all except the public weal—have been agreed to, and I have little doubt but that the measure will pass the Senate this afternoon or as soon as it can be reached. To indorse the bill absolutely as it now stands does not seem to be at all necessary. The national political conventions have indorsed this plan of arbitration, and I do not believe there can be any doubt in the mind of anybody that the principle of arbitration between railway companies and their employees is the correct one. That is really what is before us now, the question whether we will indorse that or whether it is better to let them fight out their disputes at the expense of the public.

The CHAIRMAN. The question is on the motion to refer this bill to the standing committee on legislation.

The motion was agreed to.

The CHAIRMAN. The next order of business is the report of the committee on uniform classification.

Mr. KAYLER. If you will allow me, the special committee on permanent organization, appointed yesterday, would like to report progress, and if the convention does not see fit to take the matter up and spend time on it now it might continue the committee, to report at the next session with something more tangible.

The CHAIRMAN. I suggest to the gentleman that we had better, perhaps, take up the regular order of business. At the close of that we can dispose of the permanent organization matter.

Mr. KAYLER. All right.

The CHAIRMAN. The regular order is the report of the committee on uniform classification.

Mr. MILLS. Mr. Decker, the assistant secretary, will read the report of the committee.

The assistant secretary read the report of the committee on uniform classification, as follows:

UNIFORM CLASSIFICATION.

Your committee on uniform classification of freight makes the following report:

That there has been no material change in the situation since the last annual report of this committee; no progress seems to have been made by the carriers, neither has Congress enacted any law on this subject. Your committee, therefore, submits the report made at the last annual convention, held in St. Louis, and found on pages 38 and 39 of the report of the proceedings of that convention, and which report reads as follows:

"At the annual convention of railroad commissioners held at Washington in April, 1893, the first committee on uniform classification was appointed. That committee made a report to the convention in May, 1894, which will be found on pages 34 and 35 of the report of the proceedings of the convention of that year; and that a conference be had by the committee with the different freight associations of the United States, namely, the Eastern Trunk Line Association, the Central Traffic Association, New England Association, Western Freight Association, Southwestern Railway and Steamship Association, and the associations south of the Ohio River and east of the Mississippi River. Such conference was not held in the year 1894, and the annual convention of 1895 continued the committee with the recommendation that the conference be held at an early date.

In pursuance of such recommendation a meeting was held in New York on the 23d of October, 1895. All the associations named, together with all trunk-line freight-traffic managers, were invited to be present. That meeting was fully reported to the convention in the report of the committee of 1896, which will be found on pages 101-103 of the report of the proceedings of that year, and the following resolutions were adopted by that convention:

"*Resolved*, That the National Convention of Railroad Commissioners, recognizing the necessity of uniform classification of freight in the interests of both the commercial public and the railroads, do respectfully recommend that the railroad companies of the United States, through their respective traffic associations, prepare a uniform classification for adoption by the Interstate Commerce Commission, the various State railroad commissions, and the railroads themselves, and that in the event of the failure of the railroad companies to prepare and adopt such uniform classification within a reasonable time, the necessary legislation should be asked of Congress requiring the adoption of a uniform classification of freight, and that the Interstate Commerce Commission be charged with the duty of preparing and enforcing such classification.

"*Resolved*, That the Interstate Commerce Commission be respectfully requested to communicate from time to time with the various railroad interests, with the view of forwarding the work, and that the said commission be requested to present a suitable bill to Congress in the event of a failure on the part of the railroads to prepare and adopt a uniform classification within a reasonable time."

For the purpose of advising the carriers of the action of the convention your committee prepared a circular letter, under date of November 1, 1896, addressed to railroad traffic managers, and freight associations of the United States, calling their attention to the report of the committee and its instructions from the convention and requesting that some action be taken on the part of the different associations and carriers looking toward an early adoption of a uniform classification of freight throughout the United States. A copy of the letter is hereto attached and made a part of this report. The only reply received was from J. W. Midgley, chairman of the Western Freight Association.

While uniformity in freight classification is regarded as indispensable to shipping interests, is demanded by commercial bodies generally, and managing railway offi-

dials are themselves practically unanimous as to the great necessity for such common treatment of freight, your committee is unable to report that the carriers have made any advance toward consolidation of the three freight classifications now most largely used in different sections of the country. This is the more to be deplored from the fact that uniformity in classification must tend to facilitate instead of restrict trade or commerce in the United States. The Interstate Commerce Commission has also recommended each year that Congress provide for a single classification, and to that end the Senate Committee on Interstate Commerce, at a meeting held in 1896, heard the view expressed by delegations of commercial bodies and by railway representatives. At that meeting but little opposition was manifested to the then pending bill, and that was voiced by the chairman of one of the railway classification committees. The bill was favorably reported by the Senate committee and placed upon the calendar, and the early end of the session and of the Fifty-fourth Congress is believed to have been the chief reason why no further action was had. That bill has again been introduced in the Senate by Senator Cullom, of Illinois, and, as Senate bill No. 775, is now pending before the Committee on Interstate Commerce, which will hardly reverse its favorable report of last year. The bill reads as follows:

A BILL directing the Interstate Commerce Commission to prepare and publish a classification of freight articles and rules, regulations, and conditions for freight transportation, to be known as the "National freight classification."

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Interstate Commerce Commission, be and is hereby, authorized and required to prepare and publish, on or before the first day of October, eighteen hundred and ninety-seven, a classification of freight articles and rules, regulations, and conditions for freight transportation, which shall be known as the 'National freight classification.'

"That such national freight classification shall be published by the Interstate Commission by printing the same in pamphlet form, and by giving public notice thereof through general distribution in such manner as it may deem advisable.

"During a period of three months immediately subsequent to the preparation of such classification, and at all times during the said period of three months, and always thereafter, the commission shall promptly hear the complaint of any carrier, or shipper against such classification or any part thereof; and after hearing and investigation of any such complaint or complaints, the commission shall have power to amend such classification for the purpose of removing any injustice thereby caused to carriers or shippers.

"That at the expiration of said three months of publication the said classification and any amendments thereto which may have been made by the commission during such time shall be in effect, and together with any subsequent amendment thereof, by the commission, shall be observed and invariably applied to interstate freight transportation, by all common carriers, subject to said act to regulate commerce. Any failure on the part of any such common carrier to observe and apply such classification shall be punishable as a violation of the act to regulate commerce, approved February fourth, eighteen hundred and ninety-seven, and amendments thereof, under the provision of section ten of said act."

Considering the fact of continued nonaction by the roads and the positive action in the United States Senate, as above stated, your committee, without further discussion of this already familiar topic, respectfully recommend the following resolution:

Resolved, That this convention hereby respectfully recommends the passage by Congress of Senate bill 775, now pending before the Senate Committee on Interstate Commerce, and that properly attested copies of the foregoing report and of this resolution be sent to the presiding officers of the Senate and House of Representatives.

Your committee is advised that a bill similar to the foregoing is now pending before the present Congress, and recommends the following resolution:

Resolved, That this convention recommend to the Congress of the United States,

the passage of an act requiring the Interstate Commerce Commission to adopt a uniform classification of freight articles, and provide for the time in which such classification shall be made by such commission, and when the same shall take effect.

Mr. MILLS. I move the adoption of the report and accompanying resolutions.

The CHAIRMAN. The question is on the adoption of the resolution and of the report; are you ready for the question?

Mr. WESSELIUS. It seems to me that the convention is doing a great deal of adopting and passing of resolutions. I am willing to admit that the other members of this convention are all fairly posted upon the details of the bill and recommendation. If that is so, they are prepared to vote in favor of the motion. For myself, I must say that I am not. To my mind the problem of transportation is the greatest problem that is before the American people, with the exception of the war, and it is a question which very few of us, I notice in conversation, are willing to admit that we have any very definite knowledge upon. I do not suppose there is a commissioner here who thinks he can offer any solution of the problem—any good, perfect, and final solution of it. If there is, I have not seen him. I do not know that we will ever have it until there is more information upon this subject in detail. We had better go very slowly with our indorsements, and I can not favor so important a proposition as fixing the classification of rates—of uniform rates—without a knowledge of the local conditions that surround your States and without taking into consideration the local conditions that surround the State of Michigan. I am opposed to the motion to adopt this report recommending the passage of Senate bill 775.

The CHAIRMAN. In looking over the work of this body and in studying it, I have come to the conclusion that there is a better way of getting at these matters than we are pursuing. It seems to me that whoever may be the chairman of this convention next year ought to have the reports of these committees all made and printed and sent to the various commissioners at least three or four weeks before this body meets so that we can study them and come here to act upon them and discuss them intelligently; and I desire to ask Mr. Moseley if it is possible for these reports to be so printed in advance of the convention.

Secretary MOSELEY. I do not think there would be any difficulty. It would very much assist the work of the convention, as the chairman has suggested, and would be far preferable to the present course. I can conceive of no objection. It would very much assist those who have the work of preparing the report of the proceedings if such a course were followed.

Mr. KAYLER. The commissioners who exercise powers over rates are apt to be more familiar with the many matters which we have been discussing than those who have no duties in regard to rates. Now, I admit that we have received the reports of the Interstate Commerce Commission, and we appreciate them very much, and we look over them when we have time; but my other duties are such that I do not

have the time to look into these questions as thoroughly as I would if they came within my jurisdiction. Then I would make it my business to do so. I think the chairman's suggestion is a splendid one.

While I do not want to be understood as opposing these recommendations that are being made by the Interstate Commerce Commission—some of these embodied in Mr. Moseley's report are good, and I would be perfectly willing to support them—but I do feel that I want to have these matters before me in a way that I can study them. It is far better to have them printed and sent out in advance of the meeting of the convention so that we can study and be prepared to discuss them intelligently.

The SECRETARY. I do not know that I am in order, but I trust that the convention will not end its sessions to-day. We desire to give you some opportunity of getting around the city to-morrow. We can probably adjourn after a short meeting in the morning, and then the remainder of the day can be devoted to looking about the city, visiting public buildings, and other points of interest.

Mr. MILLS. It certainly was not the intention of the committee on uniform classification to bring a report here without due consideration, or one which it thought that this convention would not be prepared to act upon. The subject has been considered by the several conventions of railroad commissioners since the year 1893. At one time, at the suggestion or by resolution of the convention, the chairman of the committee called a meeting of the traffic managers of the United States in regard to this subject of classification, and we had quite a long discussion. All the forenoon was taken up in discussion of the question and a considerable amount of information was submitted, all of which was filed with the report of 1895, and is now in the files of the Interstate Commerce Commission. The general sentiment of the traffic managers themselves was in favor of a uniform classification, and this also seems to be the general sentiment of all shippers. I have at my home letters from shippers in Chicago and other cities requesting action on this question by the railroad commissioners at their annual conventions, and all earnestly favor uniform classification of freight articles.

Mr. Bird, the general traffic manager of the Chicago, Milwaukee and St. Paul Railway, says, in substance, either in a letter to me or in remarks to the convention, I am not sure which, that one of the greatest means of discrimination possessed by carriers is that of classification and the construction of the present rules of classification.

Now, I do not think it is well for us to take a step backward after our conventions have recommended this action on two different occasions. It seems to me that this resolution should be adopted. If I had thought it necessary I would have been glad to bring the report of the meeting held in New York with me and, also, all of the correspondence had on this question, but when I brought it here before it was hard work to get the committee to take it up.

Mr. KAYLER. In view of the explanation of Mr. Mills I am very willing to support the motion.

The report of the committee on uniform classification was unanimously adopted.

Mr. Brown (of Pennsylvania) was requested to take the chair.

Mr. COLE. On behalf of the committee on organization of the convention I beg to report that it is the sense of the committee that this convention should elect a chairman, vice-chairman, secretary, and assistant secretary as the officers of the convention for the ensuing year. The committee also recommends Mr. Cicero J. Lindly, of Illinois, for chairman; Mr. W. W. Ainsworth, of Iowa, for vice-chairman; Mr. E. A. Moseley, for secretary, and Mr. M. S. Decker, for assistant secretary.

Mr. BIDWELL. I move that the committee's report or recommendation as to the selection of officers for the ensuing year be adopted.

Mr. ARCHER. I move that the report be amended in this respect: That there be added to the list of officers a second vice-chairman. At this convention we found ourselves without an elected presiding officer, and it became necessary for the convention to select one. It seems to me, therefore, that we could well provide for a second chairman, and I offer an amendment to the committee's resolution to that effect.

The amendment was adopted.

The original motion as amended was unanimously adopted, and the officers named for the ensuing year were declared elected.

The CHAIRMAN. You may proceed, Mr. Cole.

Mr. COLE. It would simplify the proceedings if the convention would now elect the vice-chairman without referring it back to the committee.

Mr. LA FOLLETTE. I will present the name of Mr. Evans, of South Carolina, for second vice-chairman.

Mr. Evans was unanimously elected.

Mr. COLE. The committee on organization begs to report on the subject of place of meeting for the next convention that they have had under consideration the city of Washington, the city of Denver, the city of Philadelphia, and the city of Topeka. The sentiment of a majority of the committee was in favor of the selection of Denver as being a central location, but the committee decided not to report definitely as to the place of meeting.

The CHAIRMAN (pro tem.). You have heard the report of the committee. It has selected no place for the next annual meeting, as I understand it.

Mr. COLE. A majority favor the city of Denver, but the committee makes no recommendation.

The CHAIRMAN. What is the pleasure of the convention?

Mr. KINGSLEY. I desire to correct the chairman of the committee. I think the vote was 3 to 2 in favor of Washington.

Mr. COLE. Some of your colleagues—yours and mine—recanted. [Laughter.]

Mr. SEUTER. I move that the city of Topeka, Kans., be selected as the place for holding the next annual convention.

Mr. LATTA. I move to substitute for the city of Topeka the city of Philadelphia.

The CHAIRMAN. It is moved that the report of the committee be accepted and that the city of Topeka, Kans., be selected as the next meeting place, and it is further moved by the gentleman from Pennsylvania (Mr. Latta) as a substitute that the city of Philadelphia be selected as the place of meeting.

Mr. LA FOLLETTE. I move you that for both the cities of Topeka and Philadelphia the city of Denver be selected as the place for holding the next annual convention.

Mr. ARCHER. I offer as a substitute for the motion and the amendment to the motion and the substitute to the amendment the following: That this convention names as the place for holding the next annual convention the city of Washington, D. C., on the second Tuesday of May, 1899.

Mr. CLEMENTS. Mr. Chairman, I think the fairest way to dispose of the question of the selection of the place of meeting is to call the roll of delegates and let each delegate vote for the place he prefers. That will avoid taking a vote on the motion and each substitute. I ask unanimous consent that the vote be taken in that way.

The CHAIRMAN. Is there objection? There being no objection, the vote will be taken by a call of the roll, each member of the convention voting for the city he desires.

Mr. DILLARD. I would like to inquire if a plurality or a majority vote will be required under the suggestion of Mr. Commissioner Clements?

Mr. CLEMENTS. I think it always takes a majority.

Arguments were made in favor of each of the cities named, and after four roll calls Denver was selected as the next place of meeting.

Mr. LINDLY. I move that we meet for the next convention on Tuesday, August 10, 1899.

The motion was agreed to. (Mr. Lindly resumed the chair.)

The CHAIRMAN. Gentlemen, I return to you my sincere and heartfelt thanks for electing me president for the ensuing year. I desire to say, along the line of my remarks a few moments ago, that I believe the work of this convention could be placed in a better condition by the committees reporting and having those reports printed and sent to every member of this convention at least three weeks prior to its meeting.

Now, I shall appoint the committees and send their appointments to them, and I shall take, not only now, but during the year, the privilege of asking some of those committees to meet for the consideration of these subjects, so that we may be ready, and that the reports of such committees be sent to me at a later date. I will forward them to the secretary, who will have them printed and sent to the delegates. We

can then study the questions, come to the convention prepared to discuss them intelligently, know what the report of each committee is, know what the recommendations of the Interstate Commerce Commission are, and I believe that greater good can be accomplished.

It shall be my purpose this year to do everything in my power to make the next convention a success. I thank you for your kindness. [Applause.]

Mr. COLE. Mr. Chairman, in behalf of the general good, and in the hope of enlarging our numbers, I would like to ask whether this convention, in the organized form in which it exists, has any knowledge of the existence of a State railroad commission in the State of New Jersey.

The ASSISTANT SECRETARY. I think not.

Mr. COLE. I understood that the last legislature of New Jersey passed a bill providing for a commission and that the governor had appointed the members.

The CHAIRMAN. In reply to the gentleman, the chairman will say that he will write during the coming year to every commission in the Union and try to have them all present at our next convention.

The next business is the report of the committee on delays attendant upon enforcing orders of railroad commissions.

Mr. AINSWORTH. I wish to preface this report with a statement that it is not made up of views originating in any one locality, and to say that the State of Iowa is getting along very happily with its railroads. There has never been a case delayed in its courts. The views of the committee did not exactly harmonize, but this was as near a compromise as we could frame. I regret that it is quite lengthy, and I will read as rapidly as I can:

DELAYS ATTENDANT UPON ENFORCING ORDERS OF RAILROAD COMMISSIONS.

The report on this subject to the last convention was chiefly devoted to the delays which attend the prosecution of cases involving orders of State commissions which have been removed to the Federal courts. That report also stated the opinion that there was, as a rule, no unnecessary delay in the enforcement of orders of commissions by State courts, and it was pointed out that these cases are usually given preference under provisions in State statutes. As recommended in the report of last year, the commission adopted the following resolution:

"Resolved, That Congress be, and is hereby, requested to enact such laws as may be necessary to have all causes involving the order or decision of any State railroad commission, or the decision of any court affirming, reversing, or modifying the same, commenced in or removed by an appeal or writ of error to any Federal court, advanced on the calendar of said court and heard next to criminal cases.

"That properly attested copies of this report and recommendations be forwarded to the presiding officers of the two Houses of Congress."

After the adoption of this resolution, the following bill was introduced in Congress; in the Senate by Senator Nelson, of Minnesota, and in the House of Representatives by Representative Eddy, of Minnesota:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all causes that are now, or may hereafter be, pending in

the Supreme Court of the United States, where the decision of said court involves the review of any judgment or decree of any State or Federal court affirming, reversing, modifying, or enjoining any order or determination of any State railroad commission, or State railroad and warehouse commission, or State board of transportation, shall, on motion of either party, be advanced on the docket and heard within three months from filing of the record in the said court."

The measure was referred to the Judiciary Committee of each House of Congress.

In the case of *Farwell Farmers' Warehouse Association v. Minneapolis, St. Paul and Sault Ste. Marie Railway Company*, where the Minnesota Commission ordered a side track to an elevator, the order of the commission was affirmed, on appeal to the State supreme court, and the judgment there entered was removed by writ of error to the United States Supreme Court. The case remained pending there for five years, and the writ of error was then dismissed upon concession of relief by the carrier to the complaining association. There was no decision on the merits of the case.

Some idea of the delays which attend cases in the Federal courts, involving rates prescribed for railway companies, may be gathered from the recently decided Nebraska maximum-freight-rate case. It is true that in this particular case the rates were fixed by the legislature, but the identical procedure—a petition to the Federal circuit court for a restraining order—would have been followed if the rates had been prescribed by the State board. The act passed by the State legislature took effect August 1, 1893. On July 29, 1893, applications for the temporary injunction were made to the United States circuit court, and after trial that court also granted a permanent restraining order on November 12, 1894. As the case involved a constitutional question, the State took an appeal direct to the Supreme Court, but decision was not rendered by that court until March 7, 1898. Under the speediest process known in ordinary Federal practice—the special proceeding by injunction—it required nearly five years to determine finally whether the schedule of maximum rates fixed by State authority in Nebraska was constitutional, and it was decided that the rates were unreasonably low to the carrier, and therefore confiscatory in 1893.

That decision, however, had reference to the date when the proceeding was begun in 1893, and it does not by any means follow that a rate which was confiscatory under the conditions of 1893 would be so under those of 1898. The court recognized that fact in its decision and gave the State leave to apply for a dissolution of the injunction. But if the State should so apply, it might not be able to obtain a decision for another five years, and the decision, when made, might mean nothing as of the date when it was made. Since the vital question which can be considered by the Federal courts will be necessarily whether the rates prescribed are confiscatory, it is plain that the decision itself should be made at a time near that to which it must have reference, and this demonstrates anew the urgent necessity for a Federal statute which will give these cases preference on the dockets of United States courts.

The experience of the Interstate Commerce Commission, which must depend altogether upon United States courts for enforcement of its orders, has been equally unsatisfactory, and in view of the present active efforts to secure amendment of the Federal regulating statute in this and other respects, some extended discussion of the causes which have operated to delay enforcement of orders issued by that body is deemed necessary.

Prior to February 4, 1887, when the act to regulate commerce became a law, the rates and regulations imposed by carriers upon interstate traffic were subject to no legislative restraints and were entirely free from governmental regulation. There was, it is true, some incidental restraint under the operation of State statutes, and a theoretical, but by no means effective, remedy for injustice in the familiar common-law rule that charges exacted by common carriers must be reasonable and just. But the States were plainly unable to prohibit extortions and discriminations in the transportation of interstate commerce, and diligent but unsuccessful efforts have been made to find the report of a case where in respect of interstate traffic any

court has ever enforced the common-law requirement that all charges shall be reasonable and just. Congress therefore most appropriately provided in the regulating statute of 1887 that the provisions of that statute should be considered as in addition to remedies existing by statute or at common law.

With the prohibitions and requirements of the act to regulate commerce all of us are familiar, and it is sufficient to say of them in this connection that they for the first time enabled an interstate passenger or shipper to have questions of unreasonable or unjust charges, discriminating rates or preferential facilities, investigated and determined by an administrative tribunal, and that they for the first time entitled cities, towns, or villages to bring and maintain proceedings based upon demands for interstate railway regulation. Claims of extortion, discrimination between shippers at the same place, and unjust disparities between rates established for competing localities, which had come from all sections, and many of which were founded upon the most damaging results, were no longer to be mere expressions of discontent; they could from that time be formally presented for redress to a disinterested public body, and with little or no resulting expense to the complaining shipper or locality.

But besides giving the Federal commission authority to hear and determine complaints, it was necessary to provide for enforcement of its determinations, and to be at all effective or of general utility the procedure to compel compliance with such determinations should be summary. The commission, having numerous duties of administration and some of supervision, could not with wisdom, or perhaps with safety, as constitutional provisions had been construed, be made a court. It must therefore be an administrative tribunal upon which the power to execute its own decrees could not be conferred.

As the Constitution had been interpreted up to 1887 it was considered entirely feasible to provide that upon disobedience of an order of the commission by the carrier, the commission or any person interested might apply to the circuit court in a summary way by petition alleging violation or disobedience of the order; that the court should give the carrier such short notice as it might deem reasonable; that the court should not only hear but determine the matter speedily as a court of equity, and without the formal pleadings and proceedings applicable to ordinary suits in equity, but so as to do justice in the premises; that the court might, if it should see fit, prosecute by such persons as it should appoint all inquiries deemed needful by the court; that on such hearing the findings of fact made by the commission should be prima facie evidence of the matters therein set forth. Either party might appeal to the Supreme Court, but the appeal was not to operate to stay or supersede the order of the circuit court. Such was in brief the apparently ideal procedure provided by Congress for enforcement of orders by the commission, and it is noteworthy that more than one State legislature subsequently used substantially the same form in providing for enforcement of orders by the State board.

That procedure was, however, of necessity, largely an experiment, and in actual application it has not met the expectations of its friends. One cardinal reason for this seems to lie in the manner in which effect is given to the orders of the Interstate Commerce Commission. That commission is not, and perhaps can not be, a court, but it proceeds in the hearing of complaints brought before it with all the formality of a court. There is the written complaint, the answer under oath, the taking of testimony, which is in all cases reduced to writing, the formal argument, and the formal decision of the case. The commissioners themselves, five in number, should be competent to intelligently decide the cases before them, yet under the law as now framed that decision when made is given no effect whatever. It is in no way binding upon the carrier until proceedings have been commenced in the Federal courts to enforce it. When those proceedings are begun the carrier can try the case *de novo*, thus making an entirely different case before the court than was made before the commission. (*Ky. & Ind. Bridge Co. v. L. & N. R. R. Co.*, 37 Fed. Rep., 567, Jan., 1889, followed in subsequent cases.) Considering the time which is

in fact—whether necessarily or not—consumed in the hearing of such case, it is years before an order of the commission can be enforced.

Congress evidently contemplated that an order of the commission could and should be speedily enforced. The result has been that instead of securing a final decision in, say, from three to six months, these cases have dragged along through the courts for approximately three to six years, with the further result that the order when made affords no practical relief to the complainant or the public.

In its last annual report the commission says: "The average duration of the cases which have been actually prosecuted for the enforcement of the orders of this commission has been about four years. Of the cases which are now pending in the court, the average length of time since they were begun before the court is something over two years." The commission also said in that report: "If there is to be a trial before the commission at all, some effect should be given to the outcome of it. A procedure like the present one tends to bring that body into disrepute and is grossly unfair to it and to the complainants who appear before it." "The delay which is attendant upon an attempt to enforce the order of the commission is unjust to the public." "Delay of this kind is fatal to a measure of regulation. It is of the very essence of a regulating body that its power, however limited, shall be capable of immediate application. Unless it has some real power of that sort it can command neither the respect nor the obedience of those subject to its control. The best part of the work of this commission ought to be and naturally would be by way of informal discussion with and suggestion to carriers; but why should the suggestion of this commission, looking to the reduction of a rate, be acted upon when its formal order directing that reduction can not be made obligatory for four years, while during all that time the carrier has nothing to lose and everything to gain by continuing to charge the excessive rate? This same fact deters shippers from the making and prosecution of formal complaints. An extensive shipper is dependent upon the railroad company. That company may completely crush him before we can afford him the slightest relief, and in spite of any action which we can take in his favor. If it does not openly discriminate against him there are innumerable ways in which it can annoy and injure him."

The courts have not succeeded in giving requisite effect to the will of Congress that the procedure in these cases should be without unnecessary formalities, and that the hearing and determination should be speedy; they have held that carriers are not restricted to the evidence presented to the commission when they attack the findings of fact made by the commission, and have allowed an entirely new trial, involving the retaking of testimony already presented to the commission, as well as the introduction of any further testimony the carriers might consider material. The disastrous results are by no means overstated by the commission in the annual report above mentioned. Under the present procedure it may be that the long-deferred relief will have become valueless to the complainant or his community through changes in trade conditions, including the possible death of the enterprise which the complainant was endeavoring to render successful. The merchants and producers and most consumers at or near the 44,000 and odd railway stations in the United States, all served by about 185,000 miles of railway, are adversely affected by this unbearable delay.

The remedy must, of course, be secured through legislation by Congress. The Supreme Court has more than once held that the functions of the Federal commission are administrative, as distinguished from those which are purely judicial, and in comparatively recent decisions that court has apparently had in mind the familiar principle that the legislative, executive, and judicial branches of the Government, though operating coordinately, are nevertheless wholly distinct, and each must be permitted to act independently within its peculiar field. (*Dodge v. Woolsey*, 18 How., 331.) It follows, therefore, that the Federal commission should, as part of the executive branch of the Government, be authorized to act with a suitable degree of finality, and yet that the constitutional right of the carrier to a review in the courts should be preserved.

With these considerations in view, the Interstate Commerce Commission has recommended amendments to the court procedure section of the Federal law which are calculated to avoid the principal delays which now attend the enforcement of its orders. These recommendations are substantially as follows:

1. That the orders of the commission shall become effective at the expiration of thirty days or such longer term as may be therein specified.

2. That the defendant carrier may file a petition in the circuit court praying for a review of the order and alleging the particulars in which it is claimed to be erroneous; and upon notice thereof the commission must file with the court a transcript of the proceedings had before it, including the pleadings, testimony, and exhibits, its report and opinion, and its orders in the premises.

3. If either side desires to take additional testimony for use in the circuit court, and the court deems such testimony material, and that it either could not have been, or under all the circumstances ought not to have been, taken before the commission, it may instruct the commission to take and send up such further testimony, and thereupon such testimony shall be taken before one or more commissioners and duly certified to the circuit court.

4. The case as certified by the commission, together with any additional testimony taken as above, shall be the record upon which it shall be heard by the circuit court, and if the court shall, upon such record, be of the opinion that the order of the commission was not a lawful, just, and reasonable one, it shall vacate the order; otherwise it shall dismiss the proceedings in review.

5. Upon the filing by the carrier of a petition for review the court may, upon notice to the commission or the complainant, extend the time within which such order shall take effect, not to exceed in all forty days from the date of service upon the carrier, and the court may also, if upon an inspection of the record it plainly appears that the order proceeds upon some error of law or is unjust and unreasonable on the facts, and not otherwise, suspend the operation of the order during the pendency of the proceedings in review, or until the further order of the court.

6. Provision is made for appeal, and the circuit court or circuit court of appeals may determine whether or not the order is to remain effective during the pendency of the appeal, and if the effect of the order is suspended the case shall be given preference over all others, excepting criminal cases.

7. When the order goes into effect, either as specified therein or upon proceedings had in court, it is to be known as a final administrative order, and upon disobedience thereof by the carrier, it shall forfeit the sum of \$5,000 to the United States, every distinct violation to be a separate offense, and in case of a continuing violation, each day is to be deemed a separate offense.

The chief difficulties which now operate to delay enforcement of an order issued by the commission would be obviated if the procedure above indicated should be adopted by Congress. The order would become effective without judicial action, and unless plain error be shown, during any proceeding had in the courts, while under the present law obedience to the order can only be compelled by invoking and obtaining the aid of the court. The carrier would have to assume the affirmative by instituting the proceeding in court, and it would have great interest in securing speedy hearing and determination of the cause, while now the carrier is merely upon the defensive, and its interests are practically as well served by delay as by a decision in its favor. The only testimony which the court could consider would be testimony which has been taken by the commission, and the carrier would have no object in refraining from presenting its whole case to the commission; while now if the carrier fails before the commission it can readily confuse and cumber the record in court by the addition of volumes of testimony concerning matters as to which the commission has already been afforded all necessary information, and upon which it has made suitable findings of fact.

At the same time it is difficult to see why the suggested procedure is not entirely fair to the railways. As already said, no order is made by the Interstate Commerce Commission except after the fullest investigation. When that order is made, it can

not go into effect until opportunity has been given the carrier to appeal from it to the Federal courts, by which it is set aside if found to be wrong either upon the law or the facts. During the pendency of those proceedings in review the court before which they are pending may suspend the effect of the order; so that in fact no order which involves more than \$2,000 in amount can become finally effective until the carrier has an opportunity to take the opinion first of the circuit court, next of the circuit court of appeals, and finally of the Supreme Court of the United States, upon the legality and fairness of that order. If the orders of the Interstate Commerce Commission are wrong, they should be vacated; if right, enforced.

Making the orders of the Interstate Commerce Commission effective, unless shown erroneous in a summary proceeding in review, would doubtless result in causing the carriers to refrain from contesting these orders in most cases, and, on the other hand, in actually diminishing the number of complaints, because the carriers would be led to pay greater heed to considerations of reason and justice, and in the knowledge of this shippers would be less prone to make unsustainable or, as sometimes happens, frivolous charges. The language used in a recent magazine article by Hon. Chauncey M. Depew, president of a large railway system, where he advocates increasing the powers of the Federal commission and making its orders summarily effective, is in point.

He says: "Nine-tenths of the passion, the prejudice, and vindictiveness of this world is removed when a tribunal exists where quick justice can be had. People are afflicted with imaginary grievances when they can get no redress. When they can secure an inexpensive and fair trial, it must be a real and substantial matter which moves them. The imagination is eliminated from the popular problem." His observation concerning the removal of passion and prejudice and vindictiveness from the minds of shippers by providing effective regulating measures applies with equal force to the minds and conduct of railway officials. The proposed procedure upon orders of the Interstate Commerce Commission above outlined is embodied in a bill now pending in the United States Senate and known as Senate Bill No. 3354. Your committee recommends the adoption of the following resolution:

Resolved, That the orders of the Interstate Commerce Commission should be effective and in full force after thirty days from the date thereof or such longer time as may therein be specified, unless temporarily suspended or finally vacated as the result of suitable proceedings for review brought by the defendant carriers in the circuit court of the United States in the manner and according to the procedure recommended by the commission in its eleventh annual report as an amendment to section 16 of the act to regulate commerce, the said amendment also being embraced in the bill now pending before the United States Senate as Senate bill No. 3354.

That the bills now pending in each House of Congress, as Senate bill No. 2999 and House bill No. 5339, hereinbefore referred to as having been introduced by Senator Nelson and Representative Eddy from Minnesota, and providing for early hearing in the United States Supreme Court of cases pending therein which involve orders of State railroad commissions, are also indorsed, but such bills should be amended so that the provisions thereof will be applicable to cases of this character in the lower Federal courts; and immediate enactment of such legislation is respectfully urged.

That a copy of this resolution and of the foregoing report, attested by the chairman and secretary of this convention, be forthwith transmitted to each House of Congress.

The CHAIRMAN. Gentlemen, you have heard the report of the committee on delays attendant upon enforcing orders of railroad commissions.

Mr. DILLARD. I move that the report be received and the resolution adopted.

The motion was unanimously agreed to.

The **CHAIRMAN**. The next order of business is the report of the committee on safety appliances, of which committee Mr. Evans is chairman.

SAFETY APPLIANCES.

The committee on safety appliances beg leave to report that they have carefully looked into the above subject and all matters submitted for its consideration, and recommend that this convention, while indorsing the many improvements in appliances for the protection of human life and property put into use from time to time by the railroad authorities, indorse the use of electricity for the lighting of engine headlights in the place of the common lamps now in use.

We are persuaded that the adoption of this means of lighting will be largely conducive to the safety of the traveling public and railroad employees.

The report was unanimously adopted.

The **CHAIRMAN**. The next order of business is the report of the special committee to which was referred the address of Mr. Ingalls.

REPORT ON ADDRESS OF MR. INGALLS.

Mr. **KNAPP**. On behalf of the special committee appointed to consider the address delivered by Mr. Ingalls I present the following brief report. I desire to say that the committee was unable to secure the attendance of Mr. Hill, a member of that committee from the State of Virginia, as he could not be found at the time of our session yesterday evening, nor have we been able to reach him to-day. With that exception the brief report is concurred in by all of the members of the committee.

The **CHAIRMAN**. The assistant secretary will please read the report.

The report was read as follows:

The special committee to whom was referred the address of Mr. Ingalls present the following report:

The limited time at our disposal has permitted little more than a hasty interchange of views upon the important matters discussed in this address.

We are impressed with the gravity of the facts submitted by Mr. Ingalls, and agree that the propositions advanced by a railroad official of his standing and repute are entitled to serious consideration.

We admire the ability displayed in this address, and commend the frankness of his admissions and the undoubted candor with which his opinions were expressed.

His recognition of the necessity for State and national regulation, and his earnest avowal that the conduct and charges of railway carriers should be subjected to the control of public authority, are specially worthy of favorable comment.

We deplore the demoralization of rates and disregard of law which Mr. Ingalls so plainly describes, and would favor such legislation as seems best calculated to remove these serious evils.

We deem it unsuitable at this time to propose specific measures, and recommend that the subject be further referred to the standing committee on railway legislation to report at the next convention.

The report was unanimously adopted.

The **CHAIRMAN**. The report of the special committee on permanent organization is next in order.

PERMANENT ORGANIZATION.

Mr. KAYLER. Mr. Chairman, I beg leave to submit the following report of the committee:

National Association of the Interstate Commerce Commission and State Railroad Commissioners.

PREAMBLE.

The members of the Interstate Commerce Commission and representatives of the several State railroad commissions, for the purpose of organization, to the end of the adoption of a more uniform system of laws for the government of railway companies, and powers of regulating and restricting the same, under the supervision of the above authorized commission and commissioners, do hereby form and establish this constitution.

ARTICLE I. The membership of this organization shall be determined by the official position held by the following:

The members, secretary, assistant secretary, and statistician of the Interstate Commerce Commission; each member of the board of commissioners, and the secretary of such boards, in States having boards of railway commissioners; and each commissioner, deputy commissioner, secretary, and statistician, in States having a commissioner only, shall constitute the membership of this organization, and upon presentation of credentials showing official relation will entitle to membership.

ARTICLE II. The officers shall consist of a president, first and second vice-presidents, secretary and treasurer, assistant secretary, and sergeant-at-arms, who shall each hold their office for one year, and shall be elected at the annual meeting by the members of the association present, and a majority of all the votes cast shall be necessary to election.

ARTICLE III. This association shall meet annually on the second Tuesday in May, in the city of Washington, D. C., unless a majority of all the members at an annual meeting shall otherwise provide, or at the call of the president at such time and place as he shall designate.

ARTICLE IV. The president shall at the annual meeting, after his election, appoint the standing committees for the ensuing year.

ARTICLE V. The members of this association shall each pay to the secretary and treasurer annual dues of ——— dollars, which shall entitle each to a certificate of membership in good standing; and membership of ex-commissioners and officials can be retained upon complying with this provision.

Ex-members of former conventions shall be entitled to honorary membership without the right to participate in debate or vote in the convention. The committee of the Association of American Railway Accounting Officers shall be members with the right to vote on all questions relating to railway accounting, and all other officials who, by legislative or executive authority, have jurisdiction of railway affairs in States having no railroad commissions or commissioners, shall be members with full powers in this association.

Mr. Chairman, inasmuch as the officers of the convention for the ensuing year have already been elected, I think it would be well to report progress and that the committee be continued and asked to prepare something more definite to submit at the next annual meeting. I think it would stimulate attendance at the conventions to have a permanent organization. Of course we know that none of us expects to hold office permanently, but there will be just as good or better men appointed to take our places, and the organization can be continued in that way.

Mr. COLE. I would like to make a suggestion, as a member of that committee. The committee would like to have the sense of this convention upon one or two subjects. One relates to annual dues. It would appear proper for a body like ours to have at its disposal some fund with which to defray necessary expenses. It need not necessarily be a large fund. We understand we have been an organization doing a large and extensive dead-head business. We come here and find that we are the guests of the Interstate Commerce Commission. We impose upon them, it seems to me, to come here year after year, as this convention has done, and use their stationery, their rooms, and the labor of their assistants and their stenographers. While we feel grateful, of course, for the facilities which have been extended to us by the Interstate Commerce Commission, it does seem to me that we ought not to continue the dead-head system we have been following. If we had a small fund, derivable from a slight membership fee, it would be useful in many ways.

Mr. KINGSLEY. I move that the request of the chairman of that committee be granted, and that it be continued with authority to report at the next convention. All matters with reference to detail can then be discussed and settled.

The motion was agreed to.

Mr. DILLARD. That will be one of the reports made on time?

The CHAIRMAN. Yes, sir. I promise you that if the committees will send in the reports they will be the only ones that will be printed, and I hope they will be the only ones heard.

Mr. FLODY. I desire to offer the following resolutions:

Resolved, That the thanks of this convention be and are hereby tendered to the members of the Interstate Commerce Commission, their secretary, and assistant secretary, for the many courtesies extended.

Be it further resolved, That the thanks of this convention are extended to all other parties lending their aid in making our visit to the National Capital a pleasant one.

The resolutions were unanimously adopted.

Mr. DECKER. I move that the chairman be empowered to appoint committees on topics specified in the present call except as to the second subject, for which the committee now acting has been continued.

The motion was agreed to.

Mr. PEARSON. I beg the indulgence of the convention just a moment. I listened yesterday with pleasure to the addresses of gentlemen in the interests of the railroads. One of the gentlemen remarked that there were three classes interested in this question: The investors, who built the railroad; the employees; and last, but not least, the people. I do not think it would be amiss, and I make this suggestion to the convention, that the people, the "Joneses who pay the freight," which annually amounts to more than \$1,150,000,000 a year should be heard from. I have in my mind Judge Walter Clark, of North Carolina, and I should be glad if this convention would extend him an invitation to

address it at its next session. If it is in order, I will offer a resolution to that effect.

Mr. KAYLER. I hope this invitation will be extended. I have read articles by this gentleman and think they are excellent.

The CHAIRMAN. I think the motion ought to be that the committee on programme be instructed to invite.

Mr. PEARSON. I will change my motion to that effect.

The motion was agreed to.

Mr. KAYLER. As it is customary to invite different ones to address the convention, I think it would be well to invite some prominent railroad man, and I would like the committee to invite Hon. J. T. Brooks, second vice-president of the Pennsylvania Company. He is quite a forceful speaker, and I think it would do him good to get into a meeting of this kind.

Mr. DILLARD. I think that the committee should be permitted to determine the matter of invitations as a rule.

Mr. RAY. I would like to suggest that some practical railroad man, some conductor or engineer, some man down in the ranks who has practical experience and comes in touch with actual railway operation, should be invited. Mr. Flory here is a conductor, Mr. Hennessey is an engineer, Mr. Kayler is a conductor, and I have been a conductor in the railway service. We think our folks should have an opportunity to be heard.

The CHAIRMAN. The committee will take notice of these requests.

Mr. WILBORN. I would like to hear from the Interstate Commerce Commission at the next session, and trust that some of its members will be present.

The CHAIRMAN. The committee will please regard these suggestions. Does any member of the convention know anything that ought to come before it? If not, I will entertain that motion.

The ASSISTANT SECRETARY. There are some communications remaining on the desk of the secretary. One from A. Bond & Co., and another from Lewis M. Haupt, both relating to miscellaneous matters, and I suppose that they can properly be referred to the committee on programme. I ask for instruction.

The CHAIRMAN. If there is no objection, the miscellaneous communications lying upon the table of the secretary will be referred to the committee on programme.

Mr. ARCHER. I move that this convention do now adjourn.

The motion was agreed to; and at 5.30 p. m. the convention was adjourned to meet in Denver, Colo., on August 10, 1899.

LIST OF STATE RAILROAD COMMISSIONS,

SHOWING

OFFICIAL TITLES AND ADDRESSES, AND NAMES AND ADDRESSES OF
MEMBERS AND SECRETARIES.

RAILROAD COMMISSION OF ALABAMA.

MONTGOMERY, ALA.

JAMES CROOK, *President*.....Jacksonville, Ala.
HARVEY E. JONES.....Springhill, Ala.
ROSS C. SMITH.....Birmingham, Ala.
CHARLES P. JACKSON, *Secretary*.....Montgomery, Ala.

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LITTLE ROCK, ARK.

DANIEL W. JONES (governor), *Chairman*.....Little Rock, Ark.
ALEX. C. HULL (secretary of state), *Secretary*.....Little Rock, Ark.
CLAY SLOAN (auditor of state).....Little Rock, Ark.

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WILLIAM R. CLARK.....Stockton, Cal.
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SAMUEL NEWMAN, *Secretary*.....San Francisco, Cal.

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WILLIAM O. SEYMOUR.....Ridgefield, Conn.
O. R. TYLER.....Torrington, Conn.
HENRY F. BILLINGS, *Secretary*.....Hartford, Conn.

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JOHN M. BRYAN.....Kissimmee, Fla.
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SPENCER R. ATKINSON.....Atlanta, Ga.
J. D. MASSEY, *Secretary*.....Atlanta, Ga.

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CHAS. S. RANNELLS	Jacksonville, Ill.
JOSEPH E. BIDWILL	Chicago, Ill.
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DAVID J. PALMER	Washington, Iowa.
WM. W. AINSWORTH, <i>Secretary</i>	Des Moines, Iowa.

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W. M. CAMPBELL	Topeka, Kans.
L. D. LEWELLING	Wichita, Kans.
J. M. SENTER, <i>Secretary</i>	Mankato, Kans.

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FRANKFORT, KY.

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A. K. TEISBERG, <i>Secretary</i>	St. Paul, Minn.

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JAMES HARDING, <i>Secretary</i>	Jefferson City, Mo.

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J. B. MESERVE (State treasurer)	Lincoln, Nebr.
J. V. WOLF (commissioner public lands and buildings)	Lincoln, Nebr.
J. V. EDGERTON, } <i>Secretaries</i>	Lincoln, Nebr.
J. C. DAHLMAN, }	
G. L. LAWS. }	

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CONVENTION OF RAILROAD COMMISSIONERS.

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HARRISBURG, PA.

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ISAAC B. BROWN, <i>Superintendent Bureau of Railways</i>	Harrisburg, Pa.

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PROVIDENCE, R. I.

E. L. FREEMAN	Providence, R. I.
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